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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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NELSON QUINTANILLA, ALEJANDRO AMAYA, ALEX
AMIR AREVALO, MAYNOR FAJARDO, WALTER GARCIA,
JOSE L. MARTINEZ, PRACELIS MENDEZ, OSMAR W.
PAGOADA, JAVIER QUINTANILLA, EDWIN RIVERA,
CARLOS ESCALANTE, KEVIN GALEANO, LERLY NOE
RODRIGUEZ, JOSE VEGA CASTILLO, JUAN
QUINTEROS, and MARCUS TULIO PEREZ,

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Plaintiffs,

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9

-against-

Case No:
09-CV-5331

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SUFFOLK PAVING CORP., SUFFOLK ASPHALT CORP.,
LOUIS VECCHIA, CHRISTOPHER VECCHIA,
HELENE VECCHIA, and JOHN DOES 1-5,

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Defendants.

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September 29, 2011
9:45 a.m.

16

4875 Sunrise Highway
Bohemia, New York

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EXAMINATION BEFORE TRIAL of JOSE L. MARTINEZ,

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one of the Plaintiffs herein, taken by the

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Defendants, pursuant to Article 31 of the

21

Civil Practice Law and Rules of Testimony,

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and Notice and order, held at the

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above-mentioned time and place, before Karen

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LaMendola, a Professional Court Reporter and

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Notary Public of the State of New York.

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A P P E A R A N C E S:

LAW OFFICES OF LAUREN GOLDBERG, PLLC
Attorneys for Plaintiffs
501 Fifth Avenue
New York, New York 10017

(NOT PRESENT)

LAW OFFICES OF PATRICK E. McNAMARA
Co-Counsel for Plaintiffs
868 Little East Neck Road
West Babylon, New York 11704

BY: PATRICK E. McNAMARA, ESQ.

LAW OFFICES OF IAN WALLACE
Co-Counsel for Plaintiffs
501 Fifth Avenue
New York, New York 10017

(NOT PRESENT)

ZABELL & ASSOCIATES, P.C.
Attorneys for Defendants
4875 Sunrise Highway
Bohemia, New York 11716

BY: SAUL ZABELL, ESQ.

ALSO PRESENT:

Margarita Arias, Spanish Interpreter

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S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED
by and between the attorneys for the
respective parties herein, that filing,
sealing and certification be and the same are
hereby waived.

IT IS FURTHER STIPULATED AND AGREED
that all objections, except as to the form of
the question shall be reserved to the time of
the trial.

IT IS FURTHER STIPULATED AND AGREED
that the within deposition may be signed and
sworn to before any officer authorized to
administer an oath, with the same force and
effect as if signed and sworn to before the
Court.

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2 M A R G A R I T A A R I A S, the Spanish
3 Interpreter herein, was duly sworn to
4 interpret the questions from English
5 into Spanish and the answers from
6 Spanish into English to the best of her
7 ability:

8 J O S E L. M A R T I N E Z, the Witness
9 herein, having been duly sworn through
10 the Interpreter, was examined and
11 testified as follows:

12 EXAMINATION BY

13 MR. ZABELL:

14 Q Would you please state your full
15 name for the record.

16 A Jose L. Martinez.

17 Q What is your current address?

18 A [REDACTED] [REDACTED]
[REDACTED] [REDACTED]

20 Q Mr. Martinez, I introduced
21 myself to you in the conference room before
22 this deposition; did I not?

23 A Excuse me, the question?

24 Q I introduced myself in the
25 conference room before this deposition; did I

1 J. L. Martinez

2 not?

3 A Yes, in the waiting area.

4 Q You seem to understand my
5 English; is that correct?

6 A I understand a little.

7 Q You seem to understand very
8 well.

9 A When you speak slowly, I
10 understand.

11 Q Have I spoken to you fast?

12 A No.

13 Q We have an interpreter here just
14 to ensure that there is no miscommunication.

15 Do you understand that?

16 A Yes.

17 Q Even though you may understand
18 the language that I speak, I'm going to ask
19 you not to answer my questions in English but
20 to answer the interpretation of my question
21 in Spanish.

22 A That's fine.

23 Q Do you understand that?

24 A Yes.

25 Q You understand that you are here

1 J. L. Martinez

2 at a deposition today; do you not?

3 A Yes.

4 Q You came to this deposition on
5 time; did you not?

6 A Yes.

7 Q And your attorney did not come
8 here on time; correct?

9 A Excuse me?

10 Q Your attorney --

11 MR. McNAMARA: Objection.

12 Q -- did not come here on time;
13 correct?

14 A Yes.

15 Q Did he explain to you why he did
16 not come here on time?

17 MR. McNAMARA: Objection.

18 A Yes.

19 Q What was his explanation?

20 A Excuse me?

21 Q Please answer the question.

22 A Is it necessary for me to
23 answer, because it's something between him
24 and me?

25 Q If I ask you the question, it's

1 J. L. Martinez

2 necessary.

3 A I don't know. I have to speak
4 to him about it.

5 Q He cannot help you. You have to
6 answer the question.

7 A Can you continue with the
8 questions? And I'll answer that soon.

9 Q Not until you answer the
10 question.

11 A If he comes from the City, and
12 maybe on the way, he had some problems.

13 Q Is that something that you just
14 made up?

15 A No.

16 Q Oh, that's something he told
17 you?

18 A Yes.

19 Q Did you know that your attorney,
20 Mr. McNamara, comes from Ronkonkoma?

21 MR. McNAMARA: Objection.

22 A Yes.

23 Q Is Ronkonkoma the City?

24 MR. McNAMARA: Objection.

25 A No.

1 J. L. Martinez

2 Q Did you know if your attorney
3 came from the City?

4 A No.

5 Q Why did you tell me the story
6 that if he came from the City, there may have
7 been things that prevented him from being
8 here?

9 A I really don't know.

10 Q So you just made up that answer
11 before?

12 MR. McNAMARA: Objection.

13 A When he got here late, this is
14 the first time that I'm with him, so I
15 thought...

16 Q You thought what?

17 A That he comes from far away, and
18 maybe there was a problem on the way.
19 Sometimes it happens.

20 Q So you just assumed that he got
21 caught up in traffic and made up a story to
22 fit that assumption; correct?

23 MR. McNAMARA: Objection.

24 A No, no, I didn't make up a
25 story. I came here to tell the truth.

1 J. L. Martinez

2 Q Yes. But you've already started
3 off this deposition by making up a story as
4 to why your attorney was late.

5 MR. McNAMARA: Objection.

6 Q He can't help you. You can look
7 at me.

8 A Okay.

9 Q Please answer the question.

10 A It's nothing that I made up.
11 It's just that many times when somebody
12 arrives late, there is a big reason for
13 having done it.

14 Q And you told me that the big
15 reason for your attorney arriving late was
16 that he came from the City; correct?

17 A Yes.

18 Q When he, in fact, did not come
19 from the City; correct?

20 A Yes.

21 Q Why would you tell me something
22 that's not true?

23 MR. McNAMARA: Objection.

24 A Because he's representing me
25 here today. The attorney that was going to

1 J. L. Martinez

2 come on my behalf comes from the City.

3 Q Is this man sitting to your
4 right not your attorney?

5 MR. McNAMARA: Objection.

6 A He works with the other person.
7 He works with another attorney.

8 Q So who is the other attorney?

9 A I forgot his name. It's a
10 little complicated for me.

11 Q Is it a man or a woman?

12 MR. McNAMARA: Objection.

13 A A man and a woman.

14 Q Do you know what their names
15 are?

16 MR. McNAMARA: Objection.

17 A No.

18 Q Getting back to the original
19 question: Why did you tell me something that
20 was untrue about your lawyer driving in from
21 the City?

22 MR. McNAMARA: Objection.

23 A I supposed that they came from
24 the City.

25 Q So you thought something and

1 J. L. Martinez

2 therefore, made up facts to support your
3 thought --

4 MR. McNAMARA: Objection.

5 Q -- is that correct?

6 A No. No, I didn't make up a
7 story.

8 Q Well, you told me that your
9 lawyer was late because he comes from the
10 City and was stuck in traffic; correct?

11 A I'm repeating that I supposed
12 that he did that.

13 Q So when you told me before that
14 that's what he told you, that wasn't 100
15 percent accurate?

16 MR. McNAMARA: Objection.

17 A I don't have a good
18 communication with him because he doesn't
19 speak my language.

20 Q Did he tell you words to the
21 effect that he was stuck in traffic on his
22 way in from the City?

23 MR. McNAMARA: Objection.

24 A No, I didn't understand
25 perfectly what he said to me.

1 J. L. Martinez

2 Q Well, did you understand
3 imperfectly what he said to you?

4 MR. McNAMARA: Objection.

5 A No, only that he was going to be
6 with me today. That, I understood perfectly.

7 Q If you did not understand what
8 he was saying to you, why would you tell me
9 that the reason he told you he was late was
10 because he was stuck in traffic?

11 A That was what I guessed.

12 Q Oh, you guessed?

13 A That's why he got here late.

14 Q I'm going to tell you that you
15 are not to guess at this deposition.

16 Do you understand that?

17 A Yes.

18 Q You're only to testify from your
19 actual memory.

20 Do you understand that?

21 A Yes.

22 Q Your attorney, or the man that
23 is sitting next to you, whether or not you
24 believe him to be your attorney, cannot help
25 you in this deposition. You are here to

1 J. L. Martinez

2 testify, based upon all the information that
3 resides in your memory.

4 Do you understand that?

5 A Yes, that's fine.

6 Q I don't want you to make
7 assumptions, I don't want you to guess, and I
8 don't want you to lie to me.

9 Do you understand that?

10 A That's fine, yes.

11 Q Are you sure we're clear on
12 that?

13 A Yes, very well, very sure.

14 Q If you do not understand a
15 question I ask you, you have an obligation to
16 tell me that you do not understand that
17 question. If you provide an answer to a
18 question I ask you, it will be assumed that
19 you understood that question.

20 Do you understand that?

21 A You.

22 Q You can take a break at any time
23 you'd like. The only caveat is that you must
24 answer any question before taking that break.

25 Do you understand that?

1 J. L. Martinez

2 A Yes.

3 Q Have you taken any
4 over-the-counter medications within the last
5 forty-eight hours?

6 A No.

7 Q Have you taken any prescription
8 medications within the last forty-eight
9 hours?

10 A No.

11 Q Are you currently under the
12 influence of any drugs or alcohol?

13 A No.

14 Q Can you think of any reason why
15 your ability to give truthful and accurate
16 testimony today would be impaired?

17 A Excuse me?

18 Q Can you think of any reason why
19 your ability to give truthful and accurate
20 testimony today would be impaired?

21 A Whatever I say is going to be
22 the truth.

23 Q That is a wonderful answer, but
24 it was not an answer to the question I asked
25 you. Listen very closely.

1 J. L. Martinez

2 Can you think of any reason why
3 your ability to give truthful and accurate
4 testimony today would be impaired?

5 A I don't understand perfectly. I
6 don't perfectly understand that question.

7 Q What is it about the question
8 that you don't understand?

9 A When you're saying a reason for
10 not being able to answer honestly and
11 truthfully, I don't have any reason to lie.

12 Q Well, I disagree with that, but
13 I'm really asking if there is any reason,
14 such as; you haven't sleep in several days,
15 you suffered some sort of head trauma, you're
16 suffering from some sort of mental illness.

17 A No.

18 Q Are there any reasons why your
19 actual memory would be impaired today?

20 A No, there's not. I'm fine.

21 Q Do you have a memory?

22 A Yes.

23 Q Is it good, bad, okay?

24 A Very good.

25 Q A very good memory?

1 J. L. Martinez

2 A Yes.

3 Q Some procedural issues. We have
4 some snacks available for you here if you'd
5 like.

6 A No, that's fine.

7 Q If you'd like some water or
8 coffee, you let me know.

9 A Okay.

10 Q Did you eat breakfast today?

11 A Yes.

12 Q What did you eat?

13 A Some bread and milk.

14 Q Some bread and milk?

15 A Yes.

16 Q No egg sandwich?

17 A No.

18 Q Do you like egg sandwiches?

19 A Sometimes.

20 Q With mayonnaise?

21 A Yes, with mayonnaise.

22 Q Now, procedurally, I received a
23 letter from your Counsel that they want to
24 record every word that you say at this
25 deposition; are you aware of that?

1 J. L. Martinez

2 A Yes.

3 Q Did they tell you that?

4 A Yes.

5 Q Who told you that?

6 MR. McNAMARA: Objection. He
7 doesn't have to answer. The witness
8 doesn't have to answer.

9 Attorney/client communications
10 are privileged, and he's not going to
11 answer that.

12 MR. ZABELL: Now, Mr. McNamara
13 -- if that is your name --

14 MR. McNAMARA: That is my name.

15 MR. ZABELL: You indicated to me
16 that you had a tape recorder with you,
17 and you'd be tape recording this
18 deposition.

19 MR. McNAMARA: Yes.

20 MR. ZABELL: I told you that
21 whatever tape recording apparatus that
22 you utilized needed to be visible and
23 somewhat professional.

24 MR. McNAMARA: Okay.

25 MR. ZABELL: Are you intending

1 J. L. Martinez

2 to tape record this deposition?

3 MR. McNAMARA: Yes.

4 MR. ZABELL: Are you now tape
5 recording this deposition?

6 MR. McNAMARA: Yes, we are.

7 MR. ZABELL: I do not see a tape
8 recording device, and I certainly don't
9 see any professional recording devices,
10 so please explain to me how you intend
11 to tape record this proceeding.

12 MR. McNAMARA: Well, we're
13 recording using this Apple iPhone right
14 here (indicating) that has a recording
15 application on it, and I think that's
16 sufficient. There's no requirements in
17 the Federal Rules that require it to be
18 professional under your understanding.
19 I don't know what your understanding of
20 professional recording equipment is,
21 but nothing in the Federal Rules says
22 that it has to be professional, and
23 there is nothing that says that the
24 equipment that I'm using is not
25 professional.

1 J. L. Martinez

2 MR. ZABELL: So that little
3 white iPhone that you make your phone
4 calls on is what's recording this
5 event?

6 MR. McNAMARA: Yes, that's
7 correct.

8 MR. ZABELL: I will consent to
9 allowing you to record this event on
10 your white iPhone over there provided
11 that within twelve hours of this
12 deposition, I'm provided with the
13 electronic file.

14 MR. McNAMARA: We can do that.
15 We'll consent to that; although, we'd
16 like thirty-six hours.

17 MR. ZABELL: I will not consent
18 if you are going to take thirty-six
19 hours. I believe twelve hours is
20 sufficient.

21 MR. McNAMARA: Okay, we'll
22 provide it, hopefully, by e-mail, and
23 if not by e-mail, then by CD within
24 twelve hours.

25 MR. ZABELL: Thank you.

1 J. L. Martinez

2 MR. McNAMARA: Wait. Twelve
3 hours won't be the next day. We'll
4 give it to you tomorrow morning, which
5 would be sixteen hours, probably.

6 MR. ZABELL: Are you asking me
7 or telling me?

8 MR. McNAMARA: Well, if this
9 deposition concludes at 5:00 p.m. and
10 we start tomorrow at 9:00 a.m. or
11 thereabout, that would be sixteen hours
12 later, so if we could make it eighteen
13 hours, that would be sufficient.

14 MR. ZABELL: Do you understand
15 that you've already consented to
16 twelve hours, and now you're asking to
17 change that to sixteen hours, but in
18 the latest round of explanation, you
19 tried to extend that sixteen hours to
20 eighteen hours? I will give you
21 twelve hours to provide it to me
22 electronically. I will give you
23 sixteen hours to provide it to me on a
24 CD-ROM.

25 MR. McNAMARA: That's fine,

1 J. L. Martinez

2 Counselor. Thank you for being so
3 understanding, Counselor.

4 MR. ZABELL: You're very
5 welcome.

6 Q Mr. Martinez?

7 A Yes, sir.

8 Q You understand how important the
9 truth is here today; correct?

10 A Yes.

11 Q And you understand that you took
12 an oath to tell the truth?

13 A Yes.

14 Q You understand that if you say
15 something that is untrue at this deposition,
16 it is equivalent to perjuring yourself before
17 a Judge in court?

18 A Yes.

19 Q You understand that there are
20 penalties for telling untruths at a
21 deposition; do you not?

22 A Yes.

23 Q You promise to only tell me the
24 truth; correct?

25 A Yes.

1 J. L. Martinez

2 Q Did you prepare for this
3 deposition in any way?

4 A No.

5 Q I didn't you see you speaking to
6 Counsel in the hallway when he arrived?

7 MR. McNAMARA: Objection.

8 A No.

9 Q Counsel didn't point out to you
10 the video camera in the hallway?

11 A Yes, but I didn't really
12 understand what he said to me. I only knew
13 that he was going to represent me today
14 because he asked my name, and that was
15 everything. We weren't in the hallway for a
16 long time.

17 Q You were in the hallway for
18 about five minutes; correct?

19 A Yes -- not in the hallway. I
20 was in the waiting area.

21 Q So if I walked you back into my
22 office and replayed the video of you speaking
23 with your attorney in the hallway, you would
24 deny that that was you?

25 MR. McNAMARA: Objection.

1 J. L. Martinez

2 A No, I wouldn't.

3 Q So you did meet with your
4 attorney before this deposition?

5 A Yes, he introduced himself to
6 me.

7 Q For five minutes?

8 A No, I don't think it was five
9 minutes.

10 Q Do you remember at the beginning
11 of this line of questioning, I asked you if
12 you met with your attorney in preparation for
13 this deposition?

14 A No.

15 Q You don't remember me just
16 asking you that question?

17 A Oh, yes, you just asked me.

18 Q Right.

19 A But I thought it was at the
20 beginning.

21 Q And you denied meeting with your
22 attorney in preparation for this deposition;
23 did you not?

24 MR. McNAMARA: Objection.

25 A I didn't deny it. I said that I

1 J. L. Martinez

2 spoke with him, but we only introduced
3 ourselves to each other.

4 Q Initially, sir, you did deny it.

5 MR. McNAMARA: Objection.

6 Q Do you remember that?

7 MR. McNAMARA: Objection.

8 A Yes -- no, I didn't deny it. I
9 did speak with my attorney, but not preparing
10 myself for this conversation.

11 Q This is not a conversation.
12 This is a deposition.

13 Do you understand that?

14 A Yes.

15 Q Generally, I know the answers to
16 the questions I ask you.

17 Do you understand that?

18 A Yes.

19 Q I knew that you met with Counsel
20 before this deposition.

21 Do you understand that?

22 A Yes.

23 Q Counsel and I had a conversation
24 regarding whether or not you would testify
25 truthfully if asked that question.

1 J. L. Martinez

2 Do you understand that?

3 MR. McNAMARA: Objection.

4 A Yes. He told me that I had to
5 tell the truth and nothing less than the
6 truth.

7 Q Who told you that?

8 A I understand that when you're in
9 court, you have to speak the truth.

10 Q You just testified that he told
11 you that you have to tell the truth.

12 Who is the "he" that you are
13 referring to?

14 A My attorneys -- my attorney.
15 It's not necessary to lie in a deposition.

16 Q Who said that?

17 MR. McNAMARA: Objection.

18 A Excuse me?

19 Q Who said that?

20 A My attorney, and I also say it.

21 Q What is that attorney's name?

22 A I said it before. I don't
23 remember his name.

24 Q You said his name before, or you
25 said you don't remember his name before?

1 J. L. Martinez

2 A I said that I don't know how to
3 pronounce it. I have problems pronouncing
4 names in English.

5 Q Is his name Patrick?

6 A Yes, his name is Patrick.

7 Q So Patrick told you that you
8 have to tell the truth; correct?

9 A He told me today, but I knew it
10 from before.

11 Q Patrick and I had a discussion
12 before this deposition wherein we discussed
13 whether you would truthfully answer whether
14 or not you met with him before this
15 deposition.

16 MR. McNAMARA: Objection.

17 Counsel, we didn't have that
18 conversation.

19 MR. ZABELL: We did, actually.

20 MR. McNAMARA: We did not have
21 that conversation.

22 MR. ZABELL: We did.

23 MR. McNAMARA: Okay.

24 MR. ZABELL: Now, I'm not going
25 to disclose to your client what you

1 J. L. Martinez

2 predicted, but I'm going to ask him.

3 Q Did you meet with Patrick in
4 advance of the deposition for purposes of
5 preparing for this deposition?

6 A No.

7 MR. ZABELL: One moment.

8 There's a call I have to take from the
9 Court.

10 (Whereupon, a recess was taken
11 from 10:08 p.m. until 10:12 p.m.)

12 MR. ZABELL: For the record, I
13 just want to make a statement. I
14 instructed my receptionist to advise us
15 if we get a phone call from
16 Judge Tomlinson or Judge Tomlinson's
17 chambers. That was the purpose for
18 that break.

19 Patrick walked with me, not
20 hand-in-hand, though, to my office
21 where we took that phone call from
22 Judge Tomlinson's law clerk.

23 Is that correct?

24 MR. McNAMARA: That is correct,
25 Counselor.

1 J. L. Martinez

2 MR. ZABELL: Is that an accurate
3 representation of the facts as you've
4 experienced them?

5 MR. McNAMARA: Yes, that is an
6 accurate representation of the facts as
7 I've experienced them.

8 MR. ZABELL: Thank you, because
9 I'm very much interested in accuracy
10 here today.

11 MR. McNAMARA: I'm sure you are.

12 Q Getting back to inaccuracies or
13 accuracies for that matter, Mr. Martinez, I
14 believe you just committed to only telling
15 the truth here; correct?

16 A Yes, that's true.

17 Q Do you have a driver's license?

18 A No.

19 Q Do you drive?

20 A Sometimes.

21 Q Do you have any

22 identification --

23 A No.

24 Q -- so that I know that the
25 person I'm speaking with is really

1 J. L. Martinez

2 Jose Martinez?

3 A No. I forgot my wallet where I
4 have my IDs.

5 Q What IDs do you have?

6 A My passport.

7 Q Would you like a rugelach?
8 They're very tasty.

9 A I didn't understand the
10 question.

11 Q Would you like a cookie?

12 A No, not for now.

13 Q I can't guarantee they're going
14 to be there when you want one. They're very
15 good.

16 A No problem.

17 Q [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 is?

[REDACTED]

1 J. L. Martinez

2 Q [REDACTED] [REDACTED] [REDACTED]

3 [REDACTED]

4 A [REDACTED]

5 Q What is your date of birth?

6 A [REDACTED] [REDACTED]

7 Q How old are you now?

8 A Thirty.

9 Q Do you live in a home?

10 A Yes.

11 Q What is the address of your
12 home?

13 A [REDACTED] [REDACTED],
14 New York.

15 Q [REDACTED] [REDACTED] [REDACTED]

16 A [REDACTED] [REDACTED] [REDACTED]

17 Q What is your native language?

18 A Spanish.

19 Q Is baby a word in Spanish?

20 A We use it often. It's in
21 English, but we use it often.

22 Q Who is the "we" you refer to?

23 A Excuse me? In my country. We
24 use it a lot in my country, the word "baby."

25 Q Why do you use it a lot?

1 J. L. Martinez

2 A There are things that you learn
3 in school.

4 Q How much schooling have you had?

5 A In my country, only three
6 schools. We call it primary school, we call
7 it middle school, and then high school.

8 Q Did you graduate high school?

9 A Yes.

10 Q What age did you stop going to
11 school?

12 A 1999, eighteen year olds.

13 Q Do you learn English in
14 El Salvador?

15 A Some.

16 Q What words?

17 MR. McNAMARA: Objection.

18 A Good morning, good afternoon,
19 what is your name, friend, names of people in
20 your family; father, brother, son, things
21 like that.

22 Q How many different names do you
23 have?

24 MR. McNAMARA: Objection.

25 A None. My name a Jose Luis Martinez.

1 J. L. Martinez

2 Q Have you ever gone by any other
3 names?

4 A No. Sometimes in my country,
5 they call us by nicknames, but that's between
6 friends. I've never used any other name.

7 Q What about in the United States,
8 have you ever used any other name?

9 MR. McNAMARA: Objection.

10 A No, never.

11 Q [REDACTED]
12 [REDACTED]?

13 A No.

14 Q [REDACTED]
[REDACTED]

16 MR. McNAMARA: Objection.

17 A [REDACTED]

18 Q [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

23 Q You can speak to your attorney
24 after you answer that question.

25 A [REDACTED].

1 J. L. Martinez

2 [REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED]

5 Q [REDACTED]
[REDACTED]?

7 MR. McNAMARA: Objection.

8 I'm instructing the witness not
9 to answer any further, pursuant to the
10 protective order.

11 MR. ZABELL: I asked a question,
12 and he provided an answer, but he
13 answered something very different. You
14 didn't object to the original question.
15 You, essentially, waived it.

16 MR. McNAMARA: I objected to the
17 original question.

18 Q [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]

[REDACTED] Q In 2003, what was your first
[REDACTED] place of employment?

1 J. L. Martinez

2 A In -- it was in a restaurant.

3 Q What was the name of that
4 restaurant?

5 A [REDACTED] [REDACTED]

6 Q You worked there from what
7 period of time to what period of time?

8 A I only worked there one month,
9 and the truth is, I said that I got here in
10 2003, but I didn't start working in 2003. I
11 started working in 2004.

12 Q But it's still truthful that you
13 got here in 2003; correct?

14 A Yes.

15 Q When did you get here in 2003?

16 A In December, at the end of
17 December.

18 Q For Christmas?

19 A Yes.

20 Q You got here in December of 2003
21 but didn't start working until 2004; is that
22 correct?

23 A Yes.

24 Q When in 2004 did you start
25 working in the [REDACTED] [REDACTED]

1 J. L. Martinez

2 A In the month of February.

3 Q How did you support yourself
4 from December through February?

5 A My family. My family helped me
6 a lot with clothes, food.

7 Q Do you live with your family at

8

9 A No, I live with my children and
10 my girlfriend.

11 Q How many children do you have?

12 A Two.

13 Q What are their ages?

14 A One is eight years old, and the
15 other one is four years old.

16 Q Were they born here in the
17 United States?

18 A One yes, and one no.

19 Q Which one was born here?

20 A My baby boy. My older boy, my
21 eight year old was born in El Salvador, and
22 the four year old was born in the United
23 States.

24 Q What is your girlfriend's name?

25 A Is it necessary?

1 J. L. Martinez

2 Q Yes.

3 A Her name is Jenny Gonzalez.

4 Q Where did you meet Ms. Gonzalez?

5 A In my country.

6 Q In El Salvador?

7 A Yes.

8 Q Is she the mother of your two
9 children?

10 A Yes.

11 Q Both of them?

12 A Both of them.

13 Q Do you have any other
14 girlfriends?

15 A No, no. Can you continue? I
16 don't have any more girlfriends.

17 Q I'm just waiting for a full and
18 complete answer.

19 MR. McNAMARA: Objection.

20 A I don't have anymore
21 girlfriends.

22 MR. McNAMARA: Can the record
23 state that Counsel is staring at the
24 witness as if he doesn't believe him.

25 MR. ZABELL: Are you finished

1 J. L. Martinez

2 making your statement on the record?

3 MR. McNAMARA: Yes.

4 MR. ZABELL: You know that
5 you're not entitled to make statements
6 on the record. You're entitled to
7 object to the form of the question or
8 you can object, based upon privilege or
9 in this particular case, protective
10 order. Beyond that, you're not to say
11 anything and clutter my record.

12 MR. McNAMARA: I choose to make
13 a statement, Counselor.

14 MR. ZABELL: I know you choose
15 to make a statement. It's
16 inappropriate. Stop doing that,
17 Counselor. That's your first warning
18 for the day.

19 Q Have you ever been married?

20 A No.

21 Q Have you ever received
22 unemployment benefits?

23 A No.

24 Q Have you ever filed for
25 unemployment benefits?

1 J. L. Martinez

2 A No.

3 Q Have you ever received any
4 Social Services benefits?

5 A Excuse me?

6 Q Social Services benefits?

7 A No.

8 Q Have you ever received food
9 stamps?

10 A No.

11 Q State-funded health insurance?

12 A No.

13 Q You haven't received any
14 benefits from the State?

15 A No.

16 Q Has your girlfriend?

17 MR. McNAMARA: Objection.

18 A Yes, when she was pregnant.

19 Q What benefits did she receive
20 from the State when she was pregnant?

21 A Medical insurance.

22 Q You did not provide her medical
23 insurance?

24 MR. McNAMARA: Objection.

25 A No.

1 J. L. Martinez

2 Q Could you afford medical
3 insurance?

4 A Excuse me?

5 Q Could you afford medical
6 insurance?

7 A No.

8 Q Do you provide medical insurance
9 for your children?

10 MR. McNAMARA: Objection.

11 A Yes.

12 Q How do you provide medical
13 insurance for your children?

14 MR. McNAMARA: Objection.

15 A The State gives every child in
16 the United States medical insurance. They
17 all have a right to receive it.

18 Q Do you pay for that?

19 A No.

20 Q Did you ever have to indicate
21 how much you earn in order for your children
22 to receive this State health insurance that
23 you speak of?

24 A Yes.

25 Q How much did you indicate that

1 J. L. Martinez

2 you earned?

3 MR. McNAMARA: Objection.

4 A I handed in the check stubs.

5 Q When did you do that?

6 MR. McNAMARA: Objection.

7 A In the year 2006.

8 Q Did you fill out the forms
9 truthfully and accurately?

10 A Yes, I filled out everything,
11 according to the law.

12 Q Were the forms in English or
13 Spanish?

14 A In Spanish.

15 Q Do you know how to read Spanish?

16 A No, there's a social worker who
17 helps out with that.

18 Q What is the social worker's
19 name?

20 MR. McNAMARA: Objection.

21 A There are many for the company
22 Affinity.

23 Q Do you have any documentation or
24 cards that show who you spoke to?

25 A No, I don't have any

1 J. L. Martinez

2 identification.

3 Q What is the name of the company
4 that you get this health insurance from?

5 A Affinity.

6 Q Is that with an I or an A?

7 A With an A.

8 Q So you graduated from high
9 school in El Salvador, but you can't read
10 Spanish?

11 MR. McNAMARA: Objection.

12 A Excuse me?

13 Q You testified earlier that you
14 graduated high school in El Salvador; do you
15 remember that?

16 A Yes.

17 Q But you do not read Spanish?

18 A Yes, I read Spanish.

19 Q When I asked you that question
20 before, you said no.

21 MR. McNAMARA: Objection.

22 A I got confused. I thought you
23 had said in English.

24 Q I don't want you to use the
25 excuse that you got confused for covering up

1 J. L. Martinez

2 untruthful testimony.

3 MR. McNAMARA: Objection.

4 Q Do you understand that?

5 A Yes.

6 Q That's why it's very important
7 that if a question confuses you, you need to
8 state that it confuses you.

9 Do you understand that?

10 A Yes.

11 Q I cannot be any more clear on
12 that. I do not want to spend the day having
13 to try to untangle your untruths.

14 MR. McNAMARA: Objection.

15 Q Do you understand that?

16 A I understand.

17 Q So you're not going to say any
18 more untruths to me; correct?

19 MR. McNAMARA: Objection.

20 A No.

21 Q You promise?

22 A Yes, I promise.

23 Q In 2004, you worked for

24 [REDACTED]

25 What did you do for them?

1 J. L. Martinez

2 A Cleaning fish, seafood,
3 sometimes washing the dishes.

4 Q How much did you earn per hour?

5 A I didn't earn per hour. They
6 paid me by the week.

7 Q How much did you earn for the
8 week?

9 A \$300.

10 Q How many hours did you work?

11 A Eight.

12 Q You got paid \$300 a week for
13 eight hours work?

14 A Yes.

15 Q That's pretty good; yes?

16 MR. McNAMARA: Objection.

17 A Yes.

18 Q How long did you work at [REDACTED]

19 [REDACTED]?

20 A Exactly one month.

21 Q Why did you work there only one
22 month?

23 A Because then I went to work in a
24 factory.

25 Q What factory did you work at?

1 J. L. Martinez

2 A It's called [REDACTED] [REDACTED].

3 Q What did you do at Colonial
4 Plastico?

5 A I did maintenance on the
6 machines and I did cleaning.

7 Q [REDACTED] [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]

12 MR. McNAMARA: Objection.

13 A No.

14 Q [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]

22 MR. McNAMARA: Objection.

23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

1 J. L. Martinez

2 don't have names.

3 Q You don't remember their names?

4 A No.

5 Q But I thought you said you have
6 a very good memory?

7 A Yes, but it wasn't only one
8 person that told me. Many people did.

9 Q Tell me as many of those names
10 as you can remember.

11 A No, when I was -- my friend who
12 spoke a lot with me -- you want her name?
13 Her name is Myra Campos. She helped me a lot
14 when I first got here.

15 Is that what this deposition is
16 about?

17 Q This deposition is about me
18 asking you questions and you providing
19 answers. You do not have the ability to
20 refuse to answer a question.

21 Where can I find Myra Campos?

22 MR. McNAMARA: Objection.

23 A That was when I came to the
24 United States. It was eight years ago. I
25 don't know where she lives now.

1 J. L. Martinez

2 Q So do you have her telephone
3 number?

4 MR. McNAMARA: I would like all
5 questions and answers arising therefrom
6 regarding taxes, the witness's payment
7 of taxes, and any other questions to be
8 marked confidential, pursuant to the
9 confidentiality agreement.

10 MR. ZABELL: I will reject that
11 designation, and if you're familiar
12 with that confidentiality agreement,
13 you know what steps you must take in
14 order to test the accuracy or
15 appropriateness of your designation.

16 MR. McNAMARA: I'm aware of
17 that, Counselor, thank you.

18 MR. ZABELL: You're welcome.
19 It's clear and in writing that your
20 designation is rejected. Do you
21 understand that?

22 MR. McNAMARA: I do understand
23 that.

24 MR. ZABELL: Okay, good.

25 Q How long did you work at

1 J. L. Martinez

2 [REDACTED]?

3 A March, April, May; three months.

4 Q How much did you earn there?

5 A The minimum. I think, it was
6 \$7.00 an hour.

7 Q You earned less there than you
8 did at [REDACTED]?

9 A Yes.

10 Q Why did you make that decision
11 to make less money?

12 A I had two jobs.

13 Q Why didn't you tell me that?

14 A Because you didn't ask me.

15 Q What other job did you have
16 in 2004?

17 A I worked making hamburgers and
18 frying potatoes in a [REDACTED].

19 Q What [REDACTED] is that?

20 A The one that's in Central Islip
21 on Carleton Avenue.

22 Q From what period of time to what
23 period of time did you work at that [REDACTED]?

24 A At the same time that I worked
25 at [REDACTED]; three months,

1 J. L. Martinez

2 approximately. I don't remember exactly how
3 long it was.

4 Q How much did you make an hour
5 there?

6 A I made \$7.50.

7 Q Per hour, when you combined both
8 jobs, you were still making less per hour
9 than you were at [REDACTED]; correct?

10 A Yes.

11 Q Why did you leave [REDACTED]
12 if that was the case?

13 MR. McNAMARA: Objection.

14 A The work was very had.

15 Q You didn't want to do hard work?

16 A I wasn't used to it. I had just
17 arrived from my country, and I wasn't used to
18 heavy work.

19 Q There's not hard work in
20 El Salvador?

21 MR. McNAMARA: Objection.

22 A Yes, there is hard work, but
23 it's different to what you do in the United
24 States.

25 Q Did you work hard in

1 J. L. Martinez

2 El Salvador?

3 A Sometimes, not always.

4 Q At [REDACTED] and
5 [REDACTED], you didn't have to work hard;
6 correct?

7 MR. McNAMARA: Objection.

8 A It wasn't hard work.

9 Q You were only at both of those
10 places for three months; right?

11 A Excuse me?

12 Q You were only at [REDACTED]
13 [REDACTED] and [REDACTED] for three months;
14 correct?

15 A Yes.

16 Q Where did you go after that?

17 A To Suffolk Paving.

18 Q When did you start at
19 Suffolk Paving?

20 A June 6th.

21 Q How did you find out about
22 Suffolk Paving?

23 A An uncle of mine took me to work
24 there.

25 Q Who is that uncle?

1 J. L. Martinez

2 A Nelson Quintanilla.

3 Q Good uncle; right?

4 A Yes, he's a good person.

5 Q He got you the job at

6 Suffolk Paving; correct?

7 A Yes.

8 Q When you went to Suffolk Paving,

9 you had no paving experience; correct?

10 A No.

11 Q Do they have asphalt in

12 El Salvador?

13 A Yes.

14 Q Did you ever do asphalt work in

15 El Salvador?

16 A No.

17 Q Is that considered heavy work

18 down there?

19 A Yes, sometimes.

20 Q When you started at

21 Suffolk Paving in 2004, what were your

22 duties?

23 A To use the shovel.

24 Q In 2004, you received paychecks

25 from Suffolk Paving; correct?

1 J. L. Martinez

2 A Yes.

3 Q Every week; correct?

4 A Yes, yes.

5 Q Those paychecks reflected the
6 hours that you worked; correct?

7 A Yes.

8 Q Did you have any other jobs
9 while you were working at Suffolk Paving
10 in 2004?

11 A No.

12 Q You never did any side jobs on
13 the weekend?

14 A Not in 2004.

15 Q You worked in 2004 for
16 Suffolk Paving from June 6th until when?

17 A Until July 15, 2008.

18 Q In the year 2004, when did you
19 stop working at Suffolk Paving?

20 A The 23rd of December.

21 Q Towards the end of year, you
22 worked less and less; correct?

23 A Excuse me?

24 Q Towards the end of the year, you
25 worked less and less at Suffolk Paving;

1 J. L. Martinez

2 correct?

3 A Yes.

4 Q Because the work was slowing
5 down; correct?

6 A Yes.

7 Q Because when it's cold out, you
8 can't really put down asphalt; correct?

9 A Yes.

10 Q In 2004, you were happy for your
11 job at Suffolk Paving; correct?

12 A Yes.

13 Q How much did they pay you an
14 hour?

15 A They didn't pay me by the hour.
16 They paid me \$90 per day.

17 Q What were some of the projects
18 that you worked on in 2004?

19 MR. McNAMARA: Objection.

20 A When I started in 2004, we
21 worked doing driveways, paving parking lots,
22 things like that. Sometimes they would send
23 me to work with masonry people.

24 Q You were just a helper?

25 A Only a helper.

1 J. L. Martinez

2 Q You never did any prevailing
3 wage work?

4 A Yes, yes, I did.

5 Q In 2004?

6 A Yes, in 2004.

7 Q What projects did you work on?

8 MR. McNAMARA: Objection.

9 A Only in some schools. That's
10 it.

11 Q What schools did you work on?

12 A I don't recall. I wasn't very
13 familiar with the places here. I can't
14 remember.

15 Q Is there anything that you could
16 look at that would help you remember?

17 A No, nothing. When I would get
18 to work, I never asked what we were going to
19 do. I was just concerned with doing my work.

20 Q So there is nothing you could
21 look at to help you refresh your
22 recollection?

23 A No.

24 Q In 2005, where did you work?

25 A Suffolk Paving.

1 J. L. Martinez

2 Q From what period of time to what
3 period of time in 2005?

4 A We started March until December.

5 Q When in March did you start?

6 A I don't remember the exact day.
7 It was maybe the 20th, between the 15th and
8 the 20th.

9 Q When in December did you stop
10 working?

11 A It was the week of Christmas.

12 Q Would you consider March until
13 December the paving season?

14 A Yes, that's the season.

15 Q At the beginning of the paving
16 season, things are slow, and at the end of
17 the paving season, things are slow; correct?

18 A Yes.

19 Q Sometimes you wouldn't work full
20 days; correct?

21 A No, we always worked full days.

22 Q Sometimes you wouldn't work full
23 weeks; correct?

24 A No, we always worked, but some
25 days because of rain, we would stay home.

1 J. L. Martinez

2 Q Do you know what days you stayed
3 home?

4 A No, it was many.

5 Q Was that just in 2005 or all the
6 time?

7 A Excuse me?

8 Q The many rain dates, was that
9 just in 2005, or was that all the time?

10 MR. McNAMARA: Objection.

11 A It was always.

12 Q Throughout your employment with
13 Suffolk Paving; correct?

14 A During my employment with
15 Suffolk Paving, yes.

16 Q In 2006, where did you work?

17 A In Suffolk Paving.

18 Q I didn't ask you this question
19 for 2005.

20 In 2005, you received paychecks
21 for each week you worked; correct?

22 A Yes.

23 Q And those paychecks indicated
24 the hours you worked; correct?

25 A Yes.

1 J. L. Martinez

2 Q In 2006, you testified you
3 worked for Suffolk Paving; correct?

4 A Yes.

5 Q Is that also from March until
6 December?

7 A No, we started -- in 2006, we
8 started a little later. Maybe about the
9 second week of April.

10 Q About April 15th?

11 A More or less.

12 Q And you worked until when?

13 A Until December.

14 Q Right around Christmas?

15 A Yes.

16 Q There were many rain dates in
17 2006, as well; correct?

18 A Yes.

19 Q In the beginning of season in
20 April, things were slow; correct?

21 A Yes.

22 Q And in December, things were
23 slow; correct?

24 A Yes, a little.

25 Q In fact, things start to slow

1 J. L. Martinez

2 down in October; correct?

3 A We would always work. I never
4 missed work because they always used me for
5 different things. Sometimes they would send
6 me to work with an operator, sometimes they
7 would send me to work with the masons, or
8 something else. They would always have me
9 working.

10 Q And sometimes you would just
11 work in the shop all day; correct?

12 A Not in the shop. Only one day.
13 They had me cleaning the yard.

14 Q When was that?

15 A It was in 2006, exactly.

16 Q Do you consider the yard and the
17 shop to be the same thing?

18 A Yes, it's the same for me. It's
19 the same building. I don't know if it's the
20 same for you.

21 Q In 2007, where did you work?

22 A Suffolk Paving.

23 Q I forgot to ask this for 2006.

24 In 2006, you received a paycheck
25 for your work; correct?

1 J. L. Martinez

2 A Yes.

3 Q That paycheck indicated the
4 hours you worked; correct?

5 A Yes.

6 Q In 2007, you just testified you
7 worked for Suffolk Paving; correct?

8 A Yes.

9 Q Did you start in April, again,
10 of 2007?

11 A Yes, in April.

12 Q The beginning or the end of
13 April?

14 A Almost at the end of April.

15 Q And you worked until December;
16 correct?

17 A Yes.

18 Q And, again, in the beginning of
19 the season, things are slow?

20 A Yes.

21 Q At the end of the season, things
22 are slow; correct?

23 A Yes.

24 Q You received, in 2007, a
25 paycheck for each week you worked; correct?

1 J. L. Martinez

2 A Yes.

3 Q On that paycheck, it indicates
4 the hours you worked; correct?

5 A Yes.

6 Q In 2008, where did you work?

7 A In Suffolk Paving.

8 Q Did you work there the whole
9 year?

10 A No.

11 Q You worked there from what
12 period of time to what period of time?

13 A From April to July.

14 Q Did you start working the end of
15 April?

16 A Yes, at the end of April.

17 Q When in July did you stop
18 working?

19 A Exactly up to the 15th of July.

20 Q How did your employment come to
21 an end at Suffolk Paving in 2008?

22 A He fired me.

23 Q Why did he fire you?

24 A Because of a complaint on a job.

25 Q Did you complain?

1 J. L. Martinez

2 A No.

3 Q Who complained?

4 A The operator complained.

5 Q Who was the operator?

6 A His same is Salvatore. I don't
7 know his last name.

8 Q Do you think he only complained
9 because you're Hispanic?

10 MR. McNAMARA: Objection.

11 A No.

12 Q Did he have a reason to
13 complain?

14 A To defend himself.

15 Q So he blamed you?

16 A Yes.

17 Q And you were fired?

18 A Yes.

19 Q You got your last paycheck?

20 A Yes.

21 Q In 2008, you got a paycheck
22 every week you worked; correct?

23 A Yes.

24 Q That paycheck indicated the
25 hours that you worked; correct?

1 J. L. Martinez

2 A Yes.

3 Q Did you ever get paid cash?

4 A No.

5 Q Did you ever get paid cash?

6 A No, no. No cash.

7 Q At the end of year in a bonus?

8 A No.

9 Q You never got cash?

10 MR. McNAMARA: Objection.

11 A No, I never received cash.

12 Q Are you sure?

13 MR. McNAMARA: Same objection.

14 A I'm sure.

15 Q Can you think of any reason why
16 somebody else would say that you did get
17 cash?

18 MR. McNAMARA: Objection.

19 A No, I don't think so.

20 Q You don't think so, what?

21 A That someone would say that I
22 received cash.

23 Q If they did, they would be a
24 liar; correct?

25 A Yes.

1 J. L. Martinez

2 Q In 2008, how much were you
3 making at Suffolk Paving?

4 A It was \$18.75 an hour.

5 Q Did you ever get paid any
6 overtime in 2008?

7 A Very few times.

8 Q Is the answer to my question,
9 yes, you did receive overtime?

10 MR. McNAMARA: Objection.

11 A Very few times.

12 Q So is the answer to my question,
13 yes, you did receive overtime?

14 MR. McNAMARA: Objection.

15 A And I said yes, very few times.

16 Q So in 2008, you received
17 overtime, correct; yes or no?

18 MR. McNAMARA: Objection.

19 A No.

20 Q In 2008, you never received
21 overtime?

22 A No.

23 Q Do you understand what it means
24 to lie?

25 MR. McNAMARA: Objection.

1 J. L. Martinez

2 A Yes.

3 Q What does it mean to you?

4 A To say false things, something
5 that you can't prove.

6 Q Do you remember just testifying
7 seconds ago that in 2008, you did receive
8 overtime?

9 MR. McNAMARA: Objection.

10 A Yes, I said very few times.

11 Q Do you remember just telling me
12 just now that in 2008, you didn't receive
13 overtime?

14 A I said that I received overtime
15 always, but very few times. I would work the
16 whole week, sometimes sixty hours, and I
17 didn't receive that whole salary.

18 Q I see you pulled out some
19 documents. May I see those?

20 A No.

21 MR. McNAMARA: May I see them
22 first.

23 THE WITNESS: (Handing.)

24 MR. McNAMARA: Counselor, these
25 are protected. You can't see these.

1 J. L. Martinez

2 They're tax returns, and the Judge
3 already said that you can't see tax
4 returns.

5 MR. ZABELL: No, she didn't say
6 that I can't see tax returns. In fact,
7 she specifically ordered the guys to
8 come up with their 1099s --

9 MR. McNAMARA: Right. W-2s or
10 1099s.

11 MR. ZABELL: -- or W-2s.

12 MR. McNAMARA: This is a return.

13 MR. ZABELL: It looks like a W-2
14 to me.

15 MR. McNAMARA: It's a return.
16 It says return on it, and I'm going to
17 object --

18 MR. ZABELL: It says return for
19 who?

20 MR. McNAMARA: It says Federal
21 tax returns right on the top.

22 MR. ZABELL: Is there a number
23 designating what that form is?

24 MR. McNAMARA: No. You know
25 what? I apologize. Yes, we can

1 J. L. Martinez

2 produce these.

3 MR. ZABELL: Thank you,
4 Counselor.

5 We're going to take a break at
6 this moment where I'm going to make
7 copies for everybody of those
8 documents, okay? Okay, Counselor?

9 MR. McNAMARA: Yes.

10 MR. ZABELL: Thank you. Apology
11 is accepted, Counselor.

12 (Whereupon, Louis Vecchia
13 entered the room.)

14 (Whereupon, a recess was taken
15 from 10:55 a.m. until 11:05 a.m.)

16 MR. ZABELL: Please read back
17 the last question and answer.

18 (Whereupon, the requested
19 portion of the record was read by the
20 court reporter.)

21 Q Is it your testimony that very
22 few times you would work the whole week,
23 sixty hours?

24 MR. McNAMARA: Objection.

25 A Yes, many times.

1 J. L. Martinez

2 Q In 2007, how much did you make
3 an hour?

4 A I -- \$18.75.

5 Q In 2006, how much would you
6 receive an hour?

7 A The same, \$18.75.

8 Q In 2005, how much did you make
9 per hour?

10 A The same, \$18.75.

11 Q Do you remember testifying
12 earlier that you only made \$90 per day in
13 2005?

14 MR. McNAMARA: Objection.

15 A No, not in 2005. When I started
16 in 2005, I started earning \$18.75.

17 Q In 2004, were you also earning
18 \$18.75?

19 MR. McNAMARA: Objection.

20 A No. When I worked in 2004, I
21 earned \$90 for the day.

22 Q Do you know how much that worked
23 out to be per hour?

24 A I would work ten hours, so it
25 would be \$9 an hour.

1 J. L. Martinez

2 Q Was it ever broken down as \$9 an
3 hour for you?

4 A No, I guess if it's \$90 and I
5 worked ten hours, so then they're paying me
6 \$9 an hour.

7 Q That's based upon your guess;
8 correct?

9 MR. McNAMARA: Objection.

10 A Not what I'm guessing. If we
11 make a mathematical conversion, that's what
12 it is.

13 Q Is that the only mathematical
14 conversion?

15 MR. McNAMARA: Objection.

16 A Nine times ten equals ninety;
17 isn't it?

18 Q How much did you get paid an
19 hour for overtime in 2005?

20 A The few times that I received
21 it, \$15 an hour.

22 Q How much did you get paid an
23 hour in overtime in 2006?

24 A The same.

25 Q How about in 2007?

1 J. L. Martinez

2 A The same thing.

3 Q How about in 2008?

4 A The same thing.

5 Q So you made \$18.75 an hour for
6 your regular time; is that correct?

7 A Yes.

8 Q And you made \$15 an hour for
9 your overtime?

10 A Yes.

11 Q Is that in addition to your
12 \$18.75 per hour?

13 A Yes, that's in addition.

14 Q So you made about \$35 an hour?

15 MR. McNAMARA: Objection.

16 A No, no, no, no.

17 Q Okay, wait a minute. You just
18 said that your overtime you made \$15 an hour;
19 correct?

20 A Yes.

21 Q This was over and above the
22 \$18.75 an hour that you received in your
23 regular time; is that correct?

24 A No. That, they never added on.

25 Q So you made less in overtime

1 J. L. Martinez

2 time than you did in your regular time?

3 A That's correct.

4 Q And that's all reflected on your
5 paychecks; correct?

6 A Yes.

7 Q It's all on the paychecks;
8 correct?

9 A Yes.

10 Q The hours that you worked are
11 listed on your paychecks; correct?

12 MR. McNAMARA: Objection.

13 A Yes.

14 Q Now, you were upset that you
15 were fired in 2008; correct?

16 A Yes, I was upset.

17 Q You were upset at Lou Vecchia?

18 MR. McNAMARA: Objection.

19 A Louie Vecchia did not fire me.

20 Q Who fired you?

21 A His manager. The manager that
22 he had. His name was Tommy.

23 Q Are you upset at Tommy?

24 A No, I respect the decisions that
25 people make.

1 J. L. Martinez

2 Q Were you angry at Salvatore?

3 MR. McNAMARA: Objection.

4 A With him, yes, because it wasn't
5 my fault. What happened wasn't my fault.

6 Q Please tell me again who
7 Salvatore is.

8 A He's an operator that used to
9 work for Suffolk Paving.

10 Q Can you describe what he looks
11 like?

12 A Yes. He's a skinny man, tall,
13 short, he has curly hair.

14 Q So he's a skinny, tall man who's
15 short with curly hair?

16 MR. McNAMARA: Objection.

17 A In compared to the rest of the
18 whites, he's like that.

19 Q I'm going to say this again
20 slowly, and I want you to listen.

21 He's a skinny, tall man who is
22 short?

23 MR. McNAMARA: Objection.

24 A No, no, I didn't say tall and
25 skinny. I said that he was skinny, and he

1 J. L. Martinez

2 was short.

3 Q You didn't say tall?

4 A No, I never said tall.

5 MR. ZABELL: Madam Interpreter,
6 did he say tall before?

7 THE INTERPRETER: I heard him
8 say tall.

9 MR. ZABELL: And I asked the
10 question if he was a skinny, tall man
11 who was also short. Did you interpret
12 that to him?

13 THE INTERPRETER: Yes, I did.

14 MR. ZABELL: Did he confirm that
15 that's what he said?

16 THE INTERPRETER: Yes, he did.

17 MR. ZABELL: Thank you.

18 I believe you because in my
19 limited Spanish, I heard that, as well.

20 Counselor, do you have any
21 statements you'd like to make?

22 MR. McNAMARA: No, I don't. We
23 can continue.

24 MR. ZABELL: You've acknowledged
25 what I've said is not inaccurate;

1 J. L. Martinez

2 correct?

3 MR. McNAMARA: Yes, I'll
4 acknowledge that.

5 MR. ZABELL: Thank you.

6 Q In 2008, when you were
7 terminated from Suffolk Paving, did you apply
8 for unemployment benefits?

9 A No.

10 Q Why not?

11 A No, I never -- I looked for
12 another employment.

13 Q Did you find another employer?

14 A Not until the next year.

15 Q Not until 2009?

16 A Yes.

17 Q In 2009, who did you work for?

18 A Fasco Paving.

19 Q You worked for Fasco Paving
20 in 2009?

21 A Yes.

22 Q Did they pay you in check --

23 A Yes.

24 Q -- or in cash?

25 A Yes, they paid me in check.

1 J. L. Martinez

2 Q Do you know what the number

3 [REDACTED] is?

4 A Excuse me?

5 Q Do you know what the number

6 [REDACTED] is?

7 A [REDACTED]

8 [REDACTED]

9 MR. McNAMARA: Objection.

10 A [REDACTED] to

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 Q You've answered the question.

15 You can speak to your attorney if you need

16 to.

17 MR. ZABELL: While you speak to

18 him, we'll take a break.

19 MR. McNAMARA: Okay, thank you.

20 (Whereupon, a recess was taken

21 from 11:13 a.m. until 12:05 p.m.)

22 Q Mr. Martinez?

23 A Yes, sir.

24 Q We've taken a break; have we

25 not?

1 J. L. Martinez

2 A Yes.

3 Q You've had an opportunity to
4 meet and confer with Counsel, correct?

5 A Yes.

6 Q And he explained to you that you
7 have to answer my questions; correct?

8 A Yes. He told me that I have to
9 respond to everything that you ask.

10 Q Okay, very well.

11 Now the [REDACTED] number --

12 A [REDACTED] [REDACTED]

13 Q No. [REDACTED]

14 A [REDACTED] [REDACTED].

15 Q [REDACTED]

16 [REDACTED]

17 MR. McNAMARA: Objection.

18 I'm instructing my client not to
19 answer this, pursuant to the protective
20 order.

21 MR. ZABELL: This isn't covered
22 by the protective order. This is an
23 actual number that he provided to
24 various employers on various occasions.

25 MR. McNAMARA: I believe it

1 J. L. Martinez

2 could deal with his immigration status,
3 and therefore, I'm instructing him not
4 to answer.

5 MR. ZABELL: I won't be asking
6 him about his immigration status.

7 MR. McNAMARA: Okay, but I'm
8 continually objecting and telling my
9 client not to answer.

10 Q [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

16 Q [REDACTED]

17 MR. McNAMARA: Objection.
18 I'm instructing the witness not
19 to answer.

20 MR. ZABELL: On what basis?

21 MR. McNAMARA: Pursuant to the
22 protective agreement.

23 Q [REDACTED]
[REDACTED]

25 MR. McNAMARA: Objection.

1 J. L. Martinez

2 I'm instructing the witness not
3 to answer.

4 Q [REDACTED]

5 [REDACTED]

6 MR. McNAMARA: Objection.

7 I'm instructing the witness not
8 to answer.

9 MR. ZABELL: On what basis?

10 MR. McNAMARA: Pursuant to the
11 protective order.

12 MR. ZABELL: I think we're going
13 to have to call the Court on that one.

14 MR. McNAMARA: Okay.

15 MR. ZABELL: Off the record.

16 (Whereupon, a discussion was
17 held off the record.)

18 Q [REDACTED]

19 [REDACTED]

20 A [REDACTED]

21 [REDACTED]

22 Q [REDACTED]

23 MR. McNAMARA: Objection.

24 A [REDACTED]

25 Q [REDACTED]

1 J. L. Martinez

2 [REDACTED]

3 A No, it's not an obligation.

4 Q It is an obligation.

5 A [REDACTED]

6 MR. ZABELL: Counsel, I'm going
7 to direct you to direct your client to
8 answer that question, please.

9 MR. McNAMARA: I'm going to take
10 a break and speak to my client outside.

11 MR. ZABELL: There is a question
12 pending before him. We can take a
13 break after he answers that question.

14 MR. McNAMARA: I'd like to speak
15 to my client outside.

16 MR. ZABELL: Unless you're going
17 to make a statement as to the purpose
18 of that conversation here on the record
19 and I find that acceptable, I'm going
20 to have to insist that he answer the
21 question first.

22 MR. McNAMARA: I would like to
23 find out from my client exactly why he
24 isn't willing to provide that
25 information.

1 J. L. Martinez

2 MR. ZABELL: Is it going to
3 involve you advising your client that
4 he may plead the Fifth Amendment?

5 MR. McNAMARA: It may.

6 MR. ZABELL: I'll consent.

7 MR. McNAMARA: Okay, we're going
8 to go outside.

9 (Whereupon, a recess was taken
10 from 12:17 p.m. until 12:23 p.m.)

11 Q Sir, you had an opportunity to
12 speak with your attorney during that break?

13 A Yes.

14 Q Are you going to provide an
15 answer to the question?

16 A [REDACTED]
17 [REDACTED]

18 Q [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]

22 A [REDACTED]
23 [REDACTED].

24 Q [REDACTED]
25 [REDACTED]

1 J. L. Martinez

2 [REDACTED]?

3 A [REDACTED] [REDACTED] [REDACTED] [REDACTED]

4 [REDACTED]

5 Q [REDACTED] [REDACTED]

6 [REDACTED] [REDACTED] [REDACTED]

7 [REDACTED] [REDACTED] [REDACTED] [REDACTED]

8 A [REDACTED] [REDACTED] [REDACTED] [REDACTED]

9 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

10 [REDACTED] [REDACTED] [REDACTED]

11 [REDACTED]

12 Q [REDACTED] [REDACTED] [REDACTED]

13 [REDACTED] [REDACTED] [REDACTED] [REDACTED]

14 [REDACTED] [REDACTED] [REDACTED] [REDACTED]

15 [REDACTED]

16 A [REDACTED] [REDACTED] [REDACTED] [REDACTED]

17 [REDACTED] [REDACTED] [REDACTED] [REDACTED]

18 [REDACTED] [REDACTED] [REDACTED] [REDACTED]

19 Q [REDACTED]

20 [REDACTED] [REDACTED] [REDACTED]

21 A [REDACTED]

22 Q [REDACTED] im?

23 MR. McNAMARA: Objection.

24 Q You can answer.

25 MR. McNAMARA: You can answer.

1 J. L. Martinez

2 Q Yes, you can answer.

3 A [REDACTED]

4 Q [REDACTED]

5 [REDACTED]

6 MR. McNAMARA: Objection.

7 Counselor, I'm not going to let this
8 line of questioning continue.

9 A [REDACTED].

10 Q [REDACTED]

11 [REDACTED]

12 MR. McNAMARA: Counselor, I'm
13 not going to let this line of
14 questioning continue. It's not in the
15 vein of what you and I discussed would
16 be the purpose of your questions, and
17 therefore, I'm not letting him
18 continue.

19 Q [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 A [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 Q What number is that?

1 J. L. Martinez

2 A I don't recall.

3 Q [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 A [REDACTED]

7 [REDACTED]

8 Q At the end of every year
9 from 2004 to 2008, you filed income taxes;
10 correct?

11 A Yes.

12 Q Did you report all the income
13 that you earned on those income tax returns?

14 A Yes.

15 Q Including the cash payments?

16 A I didn't receive cash payments.

17 Q [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 A [REDACTED]

21 [REDACTED]

22 Q So you did receive cash
23 payments; correct?

24 MR. McNAMARA: Objection.

25 A [REDACTED]

1 J. L. Martinez

2 [REDACTED]

3 Q You had also indicated that you
4 had done some side jobs.

5 MR. McNAMARA: Objection.

6 Q Do you recall that?

7 A Yes.-

8 Q How were you paid for those side
9 jobs?

10 A Sometimes they didn't pay me,
11 and sometimes with a little money. I did it
12 with friends.

13 Q When did you do those side jobs?

14 A I don't recall.

15 Q So did you do those side jobs
16 in 2004?

17 A No.

18 Q Did you do those side jobs in
19 it 2005?

20 A Yes.

21 Q Did you do those side jobs
22 in 2006?

23 A Yes, on the weekends. If a
24 friend asks me for help to do something, I
25 would do it. Sometimes if it's a friend, he

1 J. L. Martinez

2 doesn't necessarily have to pay me.

3 Q Did you do those side jobs
4 in 2008?

5 A When I left Suffolk Paving.

6 Q But not before you left
7 Suffolk Paving?

8 A Not before.

9 Q You understand why you were
10 terminated from Suffolk Paving; correct?

11 A Yes, I know why they terminated
12 me.

13 Q And you're not claiming that
14 they terminated you for any discriminatory
15 reasons; correct?

16 A No.

17 Q And you're not claiming that
18 they terminated you for any retaliatory
19 reasons; correct?

20 A Excuse me?

21 Q You're not claiming that they
22 terminated you for any retaliatory reasons?

23 MR. McNAMARA: Objection.

24 A No.

25 Q You're not claiming that they

1 J. L. Martinez

2 terminated you for any unlawful reasons;
3 correct?

4 A No. I said before that they
5 fired me -- he fired me, the operator, to
6 defend himself.

7 Q So the operator fired you;
8 correct?

9 A He put the complaint in for them
10 to fire me.

11 Q And it had nothing to do with
12 you blowing out a curb?

13 A No, the curb was already ruined
14 when he said that I had damaged it.

15 Q It was a new curb; right?

16 A Yes, it was a new curb.

17 Q So the brand new curb was
18 ruined, and you didn't ruin it?

19 MR. McNAMARA: Objection.

20 A No, I didn't do it.

21 Q Who did it?

22 A It was like that when we started
23 the work. The curb was like that, so I was
24 cleaning water that was there because of the
25 rain during the night before, and when the

1 J. L. Martinez

2 inspector came where I was working with the
3 machine, he looked and saw that a corner of
4 the curb was damaged. So when the inspector
5 put in the complaint to the operator, the
6 operator said that I had done that.

7 Q And you did do it, correct?

8 MR. McNAMARA: Objection.

9 A No, I didn't to it.

10 Q What exactly is it that you're
11 claiming that you did or didn't do?

12 A That the complaint that he
13 submitted was saying that I had broken the
14 curb.

15 Q How was the curb broken?

16 A It was like this (indicating).
17 Maybe because of the way that it was
18 constructed and because the water had eroded
19 the dirt.

20 Q But it was a new curb.

21 A Yes, I know that it was a new
22 curb, but there was something that they
23 called a joint. From the exact corner to
24 about four or five feet away from the corner
25 was the other joint, so because of that,

1 J. L. Martinez

2 maybe the curb opened up.

3 Q Do you go to church?

4 MR. McNAMARA: Objection.

5 A Sometimes.

6 Q Do you go on Sundays?

7 A Not exactly on Sundays.

8 Sometimes on Saturdays. I don't do it very
9 often.

10 Q Why?

11 MR. McNAMARA: Objection.

12 A I believe in God, but not in
13 religion.

14 MR. McNAMARA: We're going to
15 take a break right now.

16 MR. ZABELL: Okay.

17 (Whereupon, a recess was taken
18 from 12:33 p.m. until 1:32 p.m.)

19 Q Are you ready?

20 A Yes.

21 Q You had a chance to speak with
22 your attorney?

23 A Yes.

24 Q He told you to tell the truth?

25 A Yes.

1 J. L. Martinez

2 Q I'm telling you to tell the
3 truth; okay?

4 A Yes.

5 MR. McNAMARA: Let the record
6 reflect that Mr. Zabell just winked at
7 the witness.

8 Q Okay?

9 A Yes.

10 Q You promise to tell the truth;
11 right?

12 A Yes.

13 Q Where are you working right now?

14 A I'm not working right now.

15 Q Where did you work in the year
16 of 2011?

17 A I worked at a garbage company a
18 few days with some friends.

19 Q What's the name of that garbage
20 company?

21 A It's called Myo, but I'm not
22 exactly working with them. I help my
23 friends, and sometimes they give me something
24 of their own, or if they get a tip, I get
25 that. I'm not working for any company in

1 J. L. Martinez

2 particular.

3 Q Why not?

4 A There's not work in the United
5 States.

6 Q Why aren't you working for
7 Powell & Lunati Paving?

8 A I worked for him only last year,
9 but he had very little work, and he was
10 giving me very few days.

11 Q What about RL Associates?

12 A That's the same company.

13 Q What about Fasco Asphalt?

14 A I left Fasco to start working
15 with Ralph Lunati.

16 Q Did you try going back to Fasco?

17 A They said they were going to
18 call me, but they haven't called me.

19 Q What about Intercounty?

20 A No, I never worked for
21 Intercounty.

22 Q Where does your uncle work?

23 A I have two uncles and we worked
24 together, but one now is unemployed, and the
25 other one works for a company in Kings Park,

1 J. L. Martinez

2 but I don't know the name of the company.

3 Q Which one is unemployed?

4 A Nelson.

5 Q Which one works for the company
6 in Kings Park?

7 A Javier.

8 Q Are you sure Nelson is on
9 unemployment?

10 A Yes.

11 Q When was the last time you spoke
12 to Nelson?

13 A Yesterday. Yes, yesterday.

14 Q He told you he was unemployed?

15 A Yes.

16 Q Were you ever in a union?

17 A No.

18 Q Who told you about this lawsuit?

19 A One day we were in the yard, and
20 one of them was talking about that. A lot of
21 us got together, a lot of us that used to
22 work together get together, and they said
23 something about the Labor Department, and
24 then someone came from the Labor Department,
25 so that was how we started the lawsuit.

1 J. L. Martinez

2 Q Who came from the Labor
3 Department?

4 A Nelson -- I don't remember. It
5 was many, because we would get together in
6 the evening. When Suffolk Paving fired me --
7 when that company fired me, I also went to
8 the Labor Department for them to help me get
9 my job back, but it was my intention to
10 return to work, because that's the only thing
11 that I wanted to do, was go back to Suffolk
12 Paving, but it wasn't possible.

13 Q The Department of Labor told you
14 that you can't get your job back?

15 A No. They said that I had to go
16 to meetings, but at that time, I didn't have
17 time, because I wasn't doing well
18 economically, so I couldn't go to the
19 meetings.

20 Q What meetings?

21 A The meetings that they have at
22 the Department of Labor where you find out
23 your rights as an employee.

24 Q Do you think you had a right to
25 get your job back?

1 J. L. Martinez

2 A Yes, I think I had the right.

3 It was the first time that somebody had
4 complained about my work, and during the time
5 I was at Suffolk Paving, nobody had ever
6 complained about my work. I worked with many
7 people; operators, foremen, and nobody ever
8 complained about my work until that day that
9 Salvatore did it, and that's why I thought
10 that I had the right to return to my job.

11 Q Do you still think you have that
12 right?

13 A No, I don't think so.

14 Q You know that you can be fired
15 for doing something wrong?

16 A Yes.

17 Q But you were upset that you got
18 fired; right?

19 A Yes.

20 Q And that's why we're here today;
21 correct?

22 A Yes.

23 Q Have you lied to get something
24 that you want?

25 A No, it's not necessary.

1 J. L. Martinez

2 Q Have you ever broken the law to
3 get something you want?

4 MR. McNAMARA: Objection.

5 A No, no.

6 Q [REDACTED]

7 [REDACTED]

8 A [REDACTED]

9 [REDACTED]

10 Q [REDACTED]

11 [REDACTED]

12 MR. McNAMARA: Objection.

13 A [REDACTED].

14 Q [REDACTED]

15 [REDACTED]?

16 MR. McNAMARA: Objection.

17 A [REDACTED]

18 Q [REDACTED]?

19 MR. McNAMARA: Objection.

20 A [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

1 J. L. Martinez

2 Q [REDACTED]

3 [REDACTED] [REDACTED]

4 MR. McNAMARA: Objection.

5 A (No verbal response.)

6 Q [REDACTED]

7 A [REDACTED]

8 Q [REDACTED]

9 [REDACTED] [REDACTED] [REDACTED]

10 MR. McNAMARA: Objection.

11 A [REDACTED]

12 Q [REDACTED] [REDACTED] [REDACTED] ct?

13 A [REDACTED]

14 [REDACTED] [REDACTED] [REDACTED]

15 [REDACTED] [REDACTED]

16 MR. McNAMARA: Objection.

17 A [REDACTED] [REDACTED]

18 [REDACTED]

19 Q [REDACTED] [REDACTED]

20 [REDACTED]

21 A [REDACTED] [REDACTED]

22 Q If everybody jumped off a
23 bridge, would you jump off a bridge?

24 MR. McNAMARA: Objection.

25 A [REDACTED] [REDACTED] [REDACTED]

1

J. L. Martinez

2

3

4

5

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Q

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8

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A

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Q

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12

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A

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Q

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16

17

MR. McNAMARA: Objection.

18

A

19

20

Q

21

22

23

MR. McNAMARA: Objection.

24

Q

You know that; right?

25

A

Excuse me?

1 J. L. Martinez

2 Q [REDACTED]

3 [REDACTED]

4 MR. McNAMARA: Objection.

5 A [REDACTED]

6 Q [REDACTED]

7 MR. McNAMARA: Objection.

8 Q Not Patrick.

9 MR. McNAMARA: Objection.

10 A A few minutes ago you asked me
11 about church, so if you ask me about church,
12 it's because you know something about church
13 or you know something about God, so you're
14 going to talk about those things, and there
15 are things that are inevitable. Everyone
16 wants to have a family.

17 Q You asked me a question, and the
18 answer to the question you asked me is:
19 You're not supposed to have a family, unless
20 you can provide for them legally.

21 MR. McNAMARA: Objection.

22 Q If you have to steal and lie to
23 provide for your family, it's still stealing
24 and lying.

25 MR. McNAMARA: Objection.

1 J. L. Martinez

2 A Excuse me?

3 Q Do you understand that?

4 A Yes. But if I'm here in this
5 deposition, it's not because I stole. It's
6 because they stole from me.

7 Q I don't necessarily agree with
8 that.

9 MR. McNAMARA: Objection.

10 Q You understand that, right?

11 MR. McNAMARA: Objection.

12 A What are you not in agreement
13 with?

14 Q I think you've been paid
15 everything that you're supposed to have been
16 paid, and I think you're lying to get
17 something you want.

18 MR. McNAMARA: Objection.

19 Q And I thing you're lying to get
20 something you don't deserve.

21 MR. McNAMARA: Objection.

22 A You don't know if I'm lying
23 because you weren't working with me fourteen,
24 fifteen hours a day and receiving payment for
25 eight hours. You weren't with me receiving

1 J. L. Martinez

2 \$18.75 an hour and overtime for \$15 an hour.

3 There, I was stealing?

4 Q Yes.

5 MR. McNAMARA: Objection.

6 A From whom?

7 Q From your employer.

8 MR. McNAMARA: Objection.

9 A From Louie Vecchia? I was
10 stealing from Louie Vecchia?

11 Q Yes.

12 A What did I steal from him?

13 Q Money, time, and supplies.

14 MR. McNAMARA: Objection.

15 Q Now I have questions for you.

16 Do you want me to ask them?

17 MR. McNAMARA: Objection.

18 A Yes, that's fine.

19 Q [REDACTED]

20 [REDACTED] [REDACTED]

21 [REDACTED] [REDACTED] [REDACTED]

22 MR. McNAMARA: Objection.

23 A (No verbal response.)

24 Q [REDACTED] [REDACTED]?

25 A [REDACTED]

1 J. L. Martinez

2 Q [REDACTED]

[REDACTED]

[REDACTED]

5 A (No verbal response.)

6 Q Correct?

7 MR. McNAMARA: Objection.

8 A [REDACTED] --

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

13 Q [REDACTED]

[REDACTED]

[REDACTED]

16 MR. McNAMARA: Objection.

17 Q [REDACTED]

[REDACTED]

[REDACTED]

20 MR. McNAMARA: Objection.

21 Q [REDACTED]

22 A [REDACTED]

23 Q [REDACTED]

[REDACTED]

[REDACTED]

1 J. L. Martinez

2 MR. McNAMARA: Objection.

3 Q Correct?

4 A [REDACTED]

[REDACTED]

6 Q [REDACTED]

[REDACTED]

8 A [REDACTED].

9 Q [REDACTED]

[REDACTED]

11 A [REDACTED]

[REDACTED]

13 Q [REDACTED]

[REDACTED]

[REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1 J. L. Martinez

2 A [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 Q [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 MR. McNAMARA: Objection.

9 Counselor, you already had your
10 opportunity today to ask these
11 questions. You're going over it over
12 and over again --

13 MR. ZABELL: Counselor, you can
14 object to the form, and that's all you
15 can object to.

16 MR. McNAMARA: I'm not
17 permitting it any further, pursuant to
18 the protective order.

19 MR. ZABELL: The protective
20 order only discusses whether I'm
21 allowed to ask this individual whether
22 or not he is an illegal alien.

23 MR. McNAMARA: That's not true.
24 That's not my understanding of the --

25 MR. ZABELL: I showed you the

1 J. L. Martinez

2 order before.

3 MR. McNAMARA: Right.

4 MR. ZABELL: I'm not asking this
5 individual if he is unlawfully within
6 the United States. That's not a
7 question I'm asking him.

8 MR. McNAMARA: I understand
9 that.

10 MR. ZABELL: [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED] So, Counsel,
14 I appreciate you objecting to the form
15 of the question, but other than that,
16 you may remain silent and allow me to
17 continue this deposition.

18 MR. McNAMARA: You may continue,
19 but, Counsel, please refrain from
20 asking the same questions over again.

21 MR. ZABELL: Well, when I get an
22 answer, I'll stop asking the question.

23 MR. McNAMARA: He's been giving
24 you answers.

25 Q You told me that when you first

1 J. L. Martinez

2 came to this country, you were ignorant;
3 correct?

4 A Yes.

5 Q Are you still ignorant?

6 A I know some things now.

7 Q [REDACTED]

8 [REDACTED] [REDACTED]

9 [REDACTED] [REDACTED]

10 MR. McNAMARA: Objection.

11 A [REDACTED]

12 Q [REDACTED]

13 A [REDACTED] [REDACTED] [REDACTED] --

14 [REDACTED] -- [REDACTED]

15 [REDACTED]

16 Q [REDACTED] [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 MR. McNAMARA: Objection.

21 A [REDACTED]

22 Q [REDACTED] [REDACTED]

23 [REDACTED] [REDACTED]

24 MR. McNAMARA: Objection.

25 A [REDACTED] [REDACTED] [REDACTED] --

1 J. L. Martinez

2 Q Yes or no?

3 A [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

9 Q I know that you want to get
10 certain things out in this deposition.

11 MR. McNAMARA: Objection.

12 Q Do you understand that?

13 A Yes.

14 Q But if you don't answer the
15 questions I ask you and only the questions I
16 ask you, you're going to be here for a very
17 long time.

18 MR. McNAMARA: Objection.

19 Q Do you understand that?

20 MR. McNAMARA: Objection.

21 A Yes.

22 Q And if it appears that you're
23 not answering the questions and only the
24 questions I ask you for purposes of this
25 deposition and to frustrate this deposition,

1 J. L. Martinez

2 there are penalties that can be assessed
3 against you.

4 MR. McNAMARA: Objection.

5 Q Do you understand that?

6 A Yes.

7 Q So try very hard to answer just
8 the questions I ask you.

9 MR. McNAMARA: Objection.

10 Q Do you understand that?

11 MR. McNAMARA: Objection.

12 A Yes.

13 Q Are you promising to try to just
14 answers the questions I ask you?

15 A If you're asking me about
16 anything relating --

17 Q Eh, eh, eh. Stop, Stop. Just
18 answer the questions I ask you.

19 Do you understand that?

20 A [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED] [REDACTED] [REDACTED]
24 [REDACTED]

25 Q Because you are not a lawyer,

1 J. L. Martinez

2 you are not entitled to make that
3 determination.

4 MR. McNAMARA: Objection.

5 A Is it necessary to have a title
6 in order to have rights?

7 Q It is necessary for you to
8 understand the laws that mandate you being
9 here.

10 MR. McNAMARA: Objection.

11 Q Do you see that fellow next to
12 you with the beard?

13 A (No verbal response.)

14 Q Do you see him? Go ahead.
15 Look.

16 A (Witness complies.)

17 Q He's an attorney. It is his job
18 to make sure that I am not running afoul of
19 your rights.

20 Do you understand that?

21 MR. McNAMARA: Objection.

22 A (No verbal response.)

23 Q Yes or no?

24 A Aren't you offending my rights
25 saying that I stole from Suffolk Paving?

1 J. L. Martinez

2 Q No.

3 A If that's the way you see it,
4 then continue with your questions.

5 Q That's the way the law sees it.
6 I want you to understand that you do not get
7 to object to any of these questions. I am
8 not asking you if you are an illegal alien.

9 MR. McNAMARA: Objection.

10 Q [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]

17 MR. McNAMARA: Objection.

18 Q Absent you saying that you
19 refuse to answer that question on the grounds
20 that it may incriminate myself, I'm entitled
21 to ask you those questions and get answers to
22 those questions.

23 Are we clear?

24 MR. McNAMARA: Objection.

25 A Yes. Continue asking.

1 J. L. Martinez

2 Q [REDACTED]

3 [REDACTED]

4 [REDACTED] [REDACTED]

5 [REDACTED]

6 MR. McNAMARA: Objection.

7 A [REDACTED]

8 [REDACTED] [REDACTED] [REDACTED] [REDACTED]

9 [REDACTED] [REDACTED]

10 [REDACTED]

11 Q [REDACTED]

12 [REDACTED]

13 [REDACTED] [REDACTED] [REDACTED]

14 MR. McNAMARA: Objection.

15 A [REDACTED].

16 Q [REDACTED]

17 [REDACTED] [REDACTED]

18 MR. McNAMARA: Objection.

19 A [REDACTED] [REDACTED]

20 [REDACTED] [REDACTED] [REDACTED]

21 [REDACTED] [REDACTED]

22 [REDACTED] [REDACTED] [REDACTED]

23 [REDACTED]

24 Q [REDACTED] [REDACTED]

25 MR. McNAMARA: Objection.

1 J. L. Martinez

2 A [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 Q [REDACTED]

6 A [REDACTED]

7 Q You're not lying here today to
8 get something that you want; are you?

9 A Excuse me?

10 MR. McNAMARA: Objection.

11 Q You're not going to lie here
12 today to get something that you want; are
13 you?

14 A No.

15 Q But you'll lie everywhere else?

16 MR. McNAMARA: Objection.

17 A No.

18 Q Let's talk some more about you
19 breaking the law; okay?

20 MR. McNAMARA: Objection.

21 Q Remember when I asked you if you
22 had a driver's license?

23 A Yes.

24 Q You said you do not; correct?

25 A Yes.

1 J. L. Martinez

2 Q Have you ever driven a car in
3 the United States?

4 A Yes.

5 Q When was the last time you drove
6 a car in the United States?

7 A Excuse me?

8 Q Try and listen to the questions.
9 I know you're upset, but you must listen to
10 the questions.

11 When was the last time you drove
12 a car?

13 A Yesterday.

14 Q Whose car did you drive?

15 A My uncle's car.

16 Q What is your uncle's name?

17 A Nelson.

18 Q Nelson Quintanilla?

19 A Yes, he's like my father. I was
20 raised with him.

21 Q Where did you drive his car?

22 A In Brentwood.

23 Q Why did you drive his car?

24 A I had to go and wash my clothes.

25 That's why I used it.

1 J. L. Martinez

2 Q And you understand that that was
3 a violation of the law; correct?

4 MR. McNAMARA: Objection.

5 A Yes.

6 Q You knew at the time you started
7 driving the car that you were breaking the
8 law; correct?

9 MR. McNAMARA: Objection.

10 A Yes.

11 Q But you broke the law because
12 you needed something; correct?

13 MR. McNAMARA: Objection.

14 A Yes.

15 Q You're comfortable breaking the
16 law if you need something; correct?

17 MR. McNAMARA: Objection.

18 A I don't take it as a very
19 serious issue.

20 Q Okay. You don't take a
21 violation of the law as a very serious issue;
22 correct?

23 MR. McNAMARA: Objection.

24 Q Correct?

25 A It is serious, but they stop me

1 J. L. Martinez

2 sometimes -- the police have stopped me, and
3 they haven't given me a ticket, and they
4 never gave me a ticket for doing that because
5 they're very conscientious.

6 Q Have you ever broken the law in
7 any other way?

8 MR. McNAMARA: Objection.

9 A No.

10 Q Have you ever been arrested?

11 MR. McNAMARA: Objection.

12 A No.

13 Q In this country?

14 A No.

15 Q In any other country?

16 A No.

17 MR. McNAMARA: Objection.

18 Q Please tell the truth.

19 MR. McNAMARA: Objection.

20 A I am speaking the truth.

21 Q You've never been arrested?

22 MR. McNAMARA: Objection.

23 A No.

24 Q Should you have been?

25 MR. McNAMARA: Objection.

1 J. L. Martinez

2 A Excuse me?

3 Q Should you have been arrested?

4 A No.

5 Q Did you ever do anything that
6 was a violation of the law?

7 MR. McNAMARA: Objection.

8 A No.

9 Q We just talked about two things
10 that you did that were violations of the law.
11 You drive without a license.

12 A Can you tell me the rest?
13 Should I be arrested for that?

14 Q I believe you should.

15 MR. McNAMARA: Objection.

16 Q [REDACTED]
17 [REDACTED]

18 MR. McNAMARA: Objection.

19 Q [REDACTED]

20 A [REDACTED].

21 Q [REDACTED]

22 A [REDACTED].

23 Q Just so long as you know it and
24 you're not continuing to deny it.

25 MR. McNAMARA: Objection.

1 J. L. Martinez

2 Q Because when you know something
3 and you deny it, you're lying to me.

4 MR. McNAMARA: Objection.

5 Q That's equivalent to perjury,
6 and that could be a violation of the law.

7 MR. McNAMARA: Objection.

8 Q You understand that; right?

9 A Yes.

10 Q When you worked for Fasco, how
11 much an hour did you make?

12 A I earned \$150 per day.

13 Q Did you ever do any prevailing
14 wage work?

15 A Sometimes.

16 Q When did you work for Fasco?

17 A In 2009.

18 Q Did you work for Fasco in 2010?

19 A No.

20 Q When you worked for Powell &
21 Lunati, how much did you make an hour?

22 A I made \$175 per day.

23 Q Did you ever do work on
24 prevailing wage jobs?

25 A Yes, sometimes.

1 J. L. Martinez

2 Q When did you work for
3 Powell & Lunati?

4 A In 2010.

5 Q From when in 2010 to when?

6 A Towards the end of April until
7 November.

8 Q Did you get paid prevailing wage
9 rates?

10 MR. McNAMARA: Objection.

11 A Yes.

12 Q I thought you just said you got
13 \$175 a day.

14 A Yes, that's what they gave me.

15 Q Was that prevailing wage rate?

16 A No, it wasn't prevailing wage.
17 When I worked prevailing wage, they gave me
18 \$45 an hour.

19 Q Did you work for RL Associates?

20 A That's the same company.

21 Q And you also made \$175 a day
22 there?

23 A Yes.

24 Q How did you get to work at
25 Suffolk Paving?

1 J. L. Martinez

2 A Excuse me?

3 Q Answer the question.

4 A I didn't hear.

5 Q How did you get to work at
6 Suffolk Paving?

7 A Sometimes my uncle would give me
8 a ride, and sometimes another coworker would
9 give me a ride.

10 Q Who is the other coworker?

11 A Edwin -- I don't remember his
12 last name.

13 Q Edwin Rivera?

14 A Yes, I think so.

15 Q Would you ever drive yourself to
16 the job site?

17 A No.

18 Q Could you?

19 A Yes, I could.

20 Q If you could drive yourself to
21 the job site, why didn't you?

22 A At first, I was living in my
23 uncle's house, and it wasn't necessary to
24 have two cars, because we would go to the
25 same job. And then I worked in the same

1 J. L. Martinez

2 group as Edwin, and we lived in the same
3 neighborhood.

4 Q So both of them would drive you
5 into the shop in the morning; correct?

6 A Yes.

7 Q But you were only just tagging
8 along with them for the ride; correct?

9 A Yes.

10 Q And then, you would drive from
11 the shop to the worksite?

12 A They would pick me up in the
13 evenings.

14 Q They would pick you up in the
15 evenings, or they would drive you home in the
16 evenings?

17 A They would take me home in the
18 evenings.

19 Q They would take you home
20 directly from the job site; correct?

21 A Yes. From the yard, they would
22 take me.

23 Q Well, why didn't you go home
24 directly from the job site?

25 A Excuse me? I didn't hear you.

1 J. L. Martinez

2 Q You only went to the shop
3 because you were tagging along for the ride;
4 correct?

5 MR. McNAMARA: Objection.

6 A Every day we would get together
7 in the morning at the yard, and we would
8 return to the yard in the afternoons.

9 Q But you only did that because
10 you didn't have a vehicle, so you couldn't
11 drive to the job site; right?

12 A No. Because Suffolk Paving
13 would tell us that we had to be there the
14 mornings, and we had return there in the
15 afternoons.

16 Q Who told you that?

17 A The foreman who would say it,
18 the manager.

19 Q That's not true.

20 MR. McNAMARA: Objection.

21 A Yes, it is true, because they
22 would give us a work order, and it said the
23 time and the employee that had to be there.
24 Sometimes at 5:00, and sometimes at 5:30 or
25 6:00 a.m., and only one person, the person in

1 J. L. Martinez

2 charge of driving had the addresses to the
3 jobs.

4 Q Right. That one person who was
5 in charge of driving could have met you at
6 the job site; correct?

7 MR. McNAMARA: Objection.

8 A No.

9 Q You just testified that you
10 could go directly to the job site in the
11 morning and that you only tagged along with
12 your uncle because he drove, correct; yes or
13 no?

14 A I --

15 Q Yes or no, sir?

16 A When he says --

17 Q You need to answer the question.

18 A You're referring to the yard.

19 That's what we call the job.

20 Q You need the answer the
21 question. If you don't answer the question,
22 you're going to be here for a very long time.

23 Do you understand?

24 MR. McNAMARA: Objection.

25 Q Look at me. Do you understand?

1 J. L. Martinez

2 A (No verbal response.)

3 Q Do you understand?

4 MR. McNAMARA: Objection.

5 A Yes.

6 Q Just answer the question I ask
7 you; okay?

8 A That's fine.

9 Q You testified that you only took
10 the car trip with your uncle to the shop,
11 because he was driving you; correct?

12 A Yes.

13 Q How long were you at the shop in
14 the mornings; five minutes?

15 A In the yard? We were there --
16 if they would tell us to be there at 6:00, we
17 were there ten, fifteen minutes before until
18 we put the tools in the truck, and then we
19 would leave for the job. That was what all
20 of the employees in Suffolk Paving had to do.

21 Q Except all of the other people
22 who came to testify said that the tools were
23 already in the truck.

24 MR. McNAMARA: Objection.

25 Q So why are you lying today?

1 J. L. Martinez

2 A Yes, because I'm not talking
3 about the other persons. I'm talking about
4 what I used to do.

5 Q Right. All the other people say
6 that the tools were already in the truck.

7 MR. McNAMARA: Objection.

8 Counselor, that's not even true.

9 Q Why are you lying?

10 A I'm not lying.

11 Q Then, answer the question.

12 A I'm not lying.

13 Q Answer the question.

14 A I'm going to answer your
15 question.

16 They would give us a work order,
17 and they would write down the types of tools
18 that we needed for that job, because I didn't
19 always work in the same group. Sometimes
20 they would send me with one person, and
21 sometimes they would send me with another
22 one. Then, I had to look to find what I
23 needed to use. They would write down what we
24 needed.

25 Q How long were you at the shop in

1 J. L. Martinez

2 the morning; five minutes?

3 A No, sometimes a half-an-hour,
4 twenty minutes.

5 Q And after you'd leave the shop
6 in the morning, you would you go eat
7 breakfast; right?

8 A Excuse me?

9 Q After you would leave the shop
10 in the morning, you would you go eat
11 breakfast; correct?

12 A No.

13 Q Would anybody get breakfast?

14 A Sometimes, not always.

15 Q Really? Because everybody else
16 says that they always went for breakfast.

17 MR. McNAMARA: Objection.

18 A Not always.

19 Q And they got egg sandwiches with
20 mayonnaise and coffee.

21 A Not everyone. I would sometimes
22 bring my breakfast from home.

23 Q And you'd wait while they went
24 and got their egg sandwiches?

25 MR. McNAMARA: Objection.

1 J. L. Martinez

2 A No. I -- since I was always in
3 the company truck, I would eat there.

4 Q You would eat at the company?

5 A Sometimes.

6 Q In the company truck?

7 A Yes, sometimes.

8 Q Instead of working?

9 MR. McNAMARA: Objection.

10 A That's what -- during the time
11 that I was going from the yard to the job.

12 Q Did you speak to any of your
13 coworkers at Suffolk Paving before coming
14 here today?

15 A No.

16 Q You didn't speak to your
17 Tio Nelson?

18 A I speak with him every day. I
19 speak with him every day, but not about why I
20 was coming here today.

21 Q You never spoke to him about
22 coming here today?

23 A Only about the date that I had
24 to come.

25 Q Did you ever drive any of the

1 J. L. Martinez

2 Suffolk Paving vehicles?

3 A When we were at the yard,
4 sometimes we were waiting for the driver, and
5 the first person that was there would take
6 care of putting diesel in the truck or move
7 it where the heavy things were going to be
8 loaded on it, like the propane gas.

9 Sometimes we would put in the
10 covers for the cesspools, things like that.
11 So he would authorize anyone -- the foreman
12 would tell us to do that. I never drove a
13 car for paving on the road.

14 Q Do you know what you're suing
15 Suffolk Paving for?

16 A Yes.

17 Q What are you suing them for?

18 A For the overtime that they
19 didn't pay me and for the regular time that
20 they didn't pay me, either.

21 Q How much are you suing them for?

22 A I don't have an exact amount.

23 Q Do you have a rough amount?

24 A No.

25 Q Do you have an approximate

1 J. L. Martinez

2 amount?

3 A No, I don't have any idea.

4 Q You have no idea what you're
5 suing them for; is that correct?

6 A I'm suing for -- because they
7 didn't pay me my overtime, and they didn't
8 pay me for all of the time that I worked for
9 the company.

10 Q How much are you suing them for?

11 MR. McNAMARA: Objection.

12 A I don't know how much it could
13 be within four years.

14 Q Is it fair to say that you have
15 no idea how much you're suing them for?

16 MR. McNAMARA: Objection.

17 A I don't know exactly how much.
18 That's why we hired a professional to take
19 care of these issues.

20 Q This one to your right?

21 A Yes.

22 Q He's your professional?

23 MR. McNAMARA: Objection,
24 Counselor.

25 MR. ZABELL: What's the specific

1 J. L. Martinez

2 number that he's owed, Counselor?

3 MR. McNAMARA: Mr. Martinez, in
4 particular?

5 MR. ZABELL: Yes.

6 MR. McNAMARA: Counselor, this
7 isn't relevant to the --

8 MR. ZABELL: Do you know either?
9 Does anybody know?

10 MR. McNAMARA: Counselor, it's
11 the amount that he's owed --

12 MR. ZABELL: Do you have any
13 idea what amount that is?

14 MR. McNAMARA: In particular?

15 MR. ZABELL: Him, yes, because
16 nobody knows what this guy wants.

17 MR. McNAMARA: It's what he's
18 due for overtime.

19 MR. ZABELL: How much?

20 MR. McNAMARA: Counselor, why
21 are you asking me questions right now?
22 I'm not the witness.

23 MR. ZABELL: Because he says you
24 know, and apparently, you don't.

25 MR. McNAMARA: It's for all the

1 J. L. Martinez

2 time that he worked --

3 MR. ZABELL: How much?

4 MR. McNAMARA: That's for a
5 Court to decide.

6 MR. ZABELL: How much is he
7 claiming he is owed? Give me a number.

8 MR. McNAMARA: Altogether,
9 there's a claim for two-and-a-half
10 million dollars.

11 MR. ZABELL: Yes, but let's be
12 realistic. How much is he claiming
13 he's owed?

14 MR. McNAMARA: That's for the
15 Court to decide.

16 MR. ZABELL: How much are you
17 claiming is owed for him?

18 MR. McNAMARA: That's for the
19 Court to determine.

20 MR. ZABELL: So you can't figure
21 that out, either?

22 MR. McNAMARA: There's already a
23 number, Counselor, and it's not for me
24 to say right now. I'm not the witness.

25 Q Even your professional doesn't

1 J. L. Martinez

2 know how much.

3 MR. McNAMARA: Objection.

4 A Then, the Judge at court will
5 know.

6 Q It's not her job to know.

7 MR. McNAMARA: Objection.

8 Q You have to present evidence to
9 indicate how much you're owed.

10 MR. McNAMARA: Objection.

11 Q And if you can't do that, then
12 your claim may fail.

13 MR. McNAMARA: Objection.

14 Q Do you understand that?

15 A I'm going to give my attorney
16 evidence so that he can show it to the Court.

17 Q Oh, you're going to; you haven't
18 done that already?

19 MR. McNAMARA: Objection.

20 A Oh, yes. He has proof and he's
21 the one that's going to present it to the
22 Court, and they are going to determine the
23 suit.

24 Q How much proof did you provide
25 to your attorney; a lot of proof or a little

1 J. L. Martinez

2 bit of proof?

3 MR. McNAMARA: Objection,
4 Counselor, this isn't relevant.

5 A All of my check stubs, my W-2s
6 from my taxes.

7 Q The taxes you filed or the taxes
8 you didn't file?

9 MR. McNAMARA: Objection.

10 A The taxes that I filed.

11 Q The ones that you didn't file,
12 you didn't provide him?

13 A What, one month of work? Those
14 are the only taxes that I didn't file.

15 Q That's yet another violation of
16 the law.

17 A You already said that before.

18 Q I know, but when I asked you if
19 you've ever broken any laws of the United
20 States of America, you said, no, and you lied
21 to me.

22 MR. McNAMARA: Objection.

23 Q Do you understand that?

24 A Yes, I understand.

25 Q Please don't lie to me anymore.

1 J. L. Martinez

2 MR. McNAMARA: Objection.

3 Q Okay?

4 A Yes.

5 Q Do you want to apologize for
6 lying?

7 MR. McNAMARA: Objection.

8 A Everyone lies. You're going to
9 try and lie, and you're trying to avoid -- as
10 an employee of Suffolk Paving, I'm owed
11 certain things.

12 Q Did you just say "everyone
13 lies"?

14 A Yes.

15 Q Are you including yourself in
16 that?

17 MR. McNAMARA: Objection.

18 A Yes.

19 Q So you do lie?

20 MR. McNAMARA: Counselor, you've
21 already asked him this.

22 Q Right?

23 A Excuse me?

24 Q Yes, right? You admit to lying?

25 MR. McNAMARA: Objection.

1 J. L. Martinez

2 A I'm telling you the truth, and
3 I'm responding to your questions.

4 Q Answer my question.

5 My question is: You just
6 testified that everybody lies; correct?

7 A Yes, but I'm not lying in order
8 to ask Suffolk Paving to pay me what I'm due
9 as a worker. That's the issue that we're
10 talking about here.

11 Q So you've lied about other
12 things?

13 A Not necessarily.

14 Q But you just testified that
15 everybody lies. In fact, you've admitted to
16 lying here today.

17 A [REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED]

19 Q [REDACTED].

20 A About that? Did I lie during
21 the time that I worked for Suffolk Paving?
22 What about the hours that they didn't pay me
23 for?

24 Q I believe you did lie, yes.

25 A Is that true only because that's

1 J. L. Martinez

2 what you believe?

3 Q No, it's true because I have
4 evidence, and your testimony --

5 A I --

6 Q Stop, stop. Answer only the
7 questions I ask you.

8 Do you understand that?

9 A Yes.

10 Q If you cannot answer only the
11 questions that I ask you, then speak to your
12 attorney and ask that he adjourn this
13 deposition until a time that you can answer
14 only the questions that I ask you.

15 Are we clear?

16 MR. McNAMARA: Objection.

17 A Yes, okay.

18 Q Are you prepared to continue?

19 A Yes.

20 Q Would you like to apologize to
21 me now?

22 MR. McNAMARA: Objection.

23 A Yes.

24 Q Accepted.

25 Do you remember when I asked you

1 J. L. Martinez

2 early on in this deposition if you've ever
3 lied?

4 A Yes.

5 Q Do you remember what your answer
6 was?

7 MR. McNAMARA: Objection.

8 A That -- no.

9 Q Your answer was no, you've never
10 lied; correct?

11 A Yes.

12 Q As this deposition has
13 continued, we have discovered that you have,
14 in fact, lied; correct?

15 MR. McNAMARA: Objection.

16 A Yes.

17 Q Which makes the statement that
18 you never lie a lie; correct?

19 MR. McNAMARA: Objection.

20 A Yes.

21 Q [REDACTED]

[REDACTED]

[REDACTED]

24 MR. McNAMARA: Objection.

25 A [REDACTED].

1 J. L. Martinez

2 Q Who is the owner of
3 Suffolk Paving?

4 A Louie Vecchia.

5 Q Are you finished with that
6 answer?

7 MR. McNAMARA: Objection.

8 A Yes.

9 Q Do you know if there are any
10 other owners of Suffolk Paving?

11 A No, not when I worked at
12 Suffolk Paving. Louie Vecchia was the only
13 owner, along with his wife, Helene Vecchia.

14 Q Do you know if his wife,
15 Helene Vecchia, is an owner?

16 A I don't know. I know that the
17 checks are signed by Louie Vecchia.

18 Q Do you have any reason to
19 believe that Helene Vecchia is an owner?

20 A Yes.

21 Q What is your reason to believe
22 that?

23 MR. McNAMARA: Objection.

24 A It's his wife. It's
25 Louie Vecchia's wife, and during the week,

1 J. L. Martinez

2 she would spend a lot of time at the company.

3 Q Is that your only basis for
4 believing that she is an owner?

5 MR. McNAMARA: Objection.

6 A Yes, she is an owner.

7 Q Is that your only basis for
8 believing she is an owner?

9 MR. McNAMARA: Objection.

10 Q Yes or no?

11 A She is an owner, as well.

12 Q What is your basis for believing
13 that?

14 MR. McNAMARA: Objection.

15 A Excuse me? Oh, she's also in
16 Suffolk Paving, because she is Louie
17 Vecchia's wife, so that means she's also an
18 owner of Suffolk Paving.

19 Q Is that your only reason for
20 believing that?

21 MR. McNAMARA: Objection.

22 A Yes.

23 Q You provided me with some
24 documents this morning; did you not?

25 A Yes.

1 J. L. Martinez

2 (Document which consisted of a
3 copy of Mr. Martinez's W-2 was marked
4 as Defendants' Exhibit 1, for
5 identification, as of this date.)

6 Q We're going to call this
7 Defendant's Exhibit 1 with today's date, 9/29.

8 Take a look at that document.

9 A (Witness complies.) What do you
10 need from this document?

11 Q I want you to take a look at it.

12 A (Witness complies.)

13 Q Have you had an opportunity to
14 look at that document?

15 A Yes.

16 Q What is that document?

17 A It's my W-2 from my income tax.

18 Q Is everything on those documents
19 truthful and accurate?

20 A Yes, that's my name.

21 Q [REDACTED]

22 [REDACTED]

23 MR. McNAMARA: Objection.

24 A [REDACTED] [REDACTED]

25 [REDACTED]

1 J. L. Martinez

2 Q That's a wonderful answer. It
3 just doesn't answer the question I asked you.

4 MR. McNAMARA: Objection.

5 Q [REDACTED]

6 [REDACTED]

7 A [REDACTED]

8 [REDACTED]

9 Q [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 MR. McNAMARA: Objection.

13 A (No verbal response.)

14 Q Look at me. He cannot help you.

15 A [REDACTED]

16 [REDACTED].

17 Q [REDACTED]

18 [REDACTED]

19 MR. McNAMARA: Objection.

20 A [REDACTED].

21 Q [REDACTED]

22 [REDACTED]

23 MR. McNAMARA: Objection.

24 A [REDACTED]

25 Q [REDACTED]

1 J. L. Martinez

2

3

MR. McNAMARA: Objection.

4

A

5

Q

6

A

7

You understand you're under

8

oath?

9

A

Yes.

10

Q

If you're lying and saying you

11

don't remember if, in fact, you do, you're

12

compounding the lie.

13

A

14

15

16

Q

17

18

MR. McNAMARA: Objection.

19

A

20

Q

21

A

22

Q

23

?

24

MR. McNAMARA: Objection.

25

A

1 J. L. Martinez

2 Q I'll take that back.

3 A (Handing.)

4 Q [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 MR. McNAMARA: Objection.

8 A [REDACTED]

9 Q [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 MR. McNAMARA: Objection.

13 A [REDACTED]

14 Q You keep lying to me, and I keep
15 asking you not to.

16 MR. McNAMARA: Objection.

17 Q I'm tending to think that you're
18 not taking this deposition very seriously.

19 MR. McNAMARA: Objection.

20 Q Is that correct?

21 A [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

1 J. L. Martinez

2 Q [REDACTED] [REDACTED].

3 MR. McNAMARA: Objection.

4 Q [REDACTED] [REDACTED] [REDACTED]

5 [REDACTED]

6 MR. McNAMARA: Objection.

7 A [REDACTED] [REDACTED] I

8 [REDACTED] [REDACTED].

9 Q Are you capable of giving
10 testimony here today without lying?

11 MR. McNAMARA: Objection.

12 A Excuse me?

13 Q Are you capable of giving
14 testimony today without lying?

15 A Yes.

16 Q Let's try and do that; okay?

17 A Okay.

18 Q Have you ever been married?

19 A No.

20 Q You just have this one
21 girlfriend; correct?

22 MR. McNAMARA: Objection.

23 A I have a girlfriend.

24 Q Is it one or more than one?

25 MR. McNAMARA: Objection.

1 J. L. Martinez

2 A No, it's one.

3 Q Have you had more than one?

4 A Yes.

5 Q At the same time?

6 MR. McNAMARA: Objection.

7 A No, not at the same time.

8 Q Did you ever lie to your

9 girlfriend?

10 MR. McNAMARA: Objection.

11 A No.

12 Q Either a big lie or a little

13 lie?

14 A No, little white lies. Things

15 like, I'm going with my friends. Everybody

16 does that.

17 Q Everybody lies?

18 MR. McNAMARA: Objection.

19 A Yes.

20 Q Not in my house.

21 A No?

22 Q No.

23 A Congratulations.

24 Q Thank you. That's because I

25 live by a certain code.

1 J. L. Martinez

2 MR. McNAMARA: Objection.

3 A You have a ring on your finger
4 and I don't.

5 Q Why is that?

6 A You made a promise.

7 Q You never made that promise?

8 MR. McNAMARA: Objection.

9 A Not to my girlfriend.

10 Q Who did you make that promise
11 to?

12 A No one.

13 Q When I asked you if you made the
14 promise, you said, not to my girlfriend,
15 indicating to me that there may be somebody
16 else that you made that promise to.

17 A No.

18 Q You did make that promise to me.

19 MR. McNAMARA: Objection.

20 A But we weren't talking about
21 girlfriends.

22 Q So you have several girlfriends?

23 MR. McNAMARA: Objection.

24 A No.

25 Q The smile on your face tells me

1 J. L. Martinez

2 that you're not being completely honest with
3 me. Spill your beans, my friend.

4 MR. McNAMARA: Objection.

5 A I thought I came to speak about
6 another situation, and I didn't think I was
7 coming here to speak about girlfriends.

8 Q I'm all about surprises.

9 A It's good to smile. It's good
10 for the health.

11 Q Explain to me what you're
12 holding back right now.

13 MR. McNAMARA: Objection.

14 A I'm telling you everything that
15 I know.

16 Q Nobody here believes you.

17 MR. McNAMARA: Objection.

18 MR. ZABELL: Let the record
19 reflect that he's giggling and laughing
20 like a schoolchild.

21 Counsel, do you agree?

22 MR. McNAMARA: Let the record
23 reflect that Mr. Zabell is giggling
24 like a schoolgirl.

25 Q Ask your attorney if he believes

1 J. L. Martinez

2 you.

3 THE WITNESS: Do you believe me?

4 MR. McNAMARA: I believe you.

5 MR. ZABELL: Off the record.

6 (Whereupon, a discussion was
7 held off the record.)

8 MR. ZABELL: Patrick, go talk to
9 your client for a little bit.

10 MR. McNAMARA: Okay.

11 (Whereupon, a recess was taken
12 from 2:31 p.m. until 2:35 p.m.)

13 Q Before the break, you were
14 telling me about your girlfriends.

15 MR. McNAMARA: Objection.

16 A Not my girlfriends. My
17 girlfriend.

18 Q Tell me about the white lies you
19 tell her.

20 MR. McNAMARA: Objection.

21 A To my wife -- to my girlfriend.
22 In my country, if you have a girl living in
23 the same house and you have children with
24 her, you call her wife. And I've learned
25 that in the United States, you have to wear a

1 J. L. Martinez

2 ring on your finger to call them wife.

3 Q I don't care whether you tell me
4 about your wife or your girlfriend. I just
5 want to know about these white lies that you
6 tell them to get what you want.

7 MR. McNAMARA: Objection.

8 A Do you want advice on how to
9 have many?

10 Q No, I'm covered. Thank you.
11 I want to know about the white
12 lies you tell them to get things that you
13 want.

14 A I don't talk lies with my
15 girlfriends. We just talk about how the
16 tomatoes are, how the beans are, how the eggs
17 are. That's what we talk about. You want me
18 to tell you what we talk about from 9:00 p.m.
19 on? I can't do that in front of you.

20 MR. ZABELL: Let the record
21 reflect that the deponent was pointing
22 to Madam Interpreter as the "you" that
23 he was referencing.

24 Q I'm not interested in your
25 pillow talk.

1 J. L. Martinez

2 You testified that you tell your
3 novia, your girlfriend, white lies.

4 A I don't talk lies with her. I
5 always tell my girlfriend that I love her,
6 and that's the truth. That's why I've been
7 with her for eleven years.

8 Q Are you saying that you did not
9 say at this deposition just a few minutes ago
10 that you tell your girlfriend white lies?

11 A Yes, I did say it. When I say
12 I'm going to play, and I go and see my
13 friends, because she doesn't like me to go
14 and visit my friends.

15 Q So you lie to her to get things
16 that you want; correct?

17 MR. McNAMARA: Objection.

18 A No, that's a lie -- that's a
19 little white lie so that my girlfriend stays
20 happy all the time.

21 Q And you want her to stay happy
22 all the time; right?

23 A Yes.

24 Q I'm not saying you're a bad
25 person for doing it, but sometimes you lie to

1 J. L. Martinez

2 your girlfriend so that you can get what you
3 want; correct?

4 MR. McNAMARA: Objection.

5 A You take that as a lie?

6 Q Yes.

7 A Okay.

8 Q So do you, because you told me
9 it was a little lie?

10 A Yes, a little white lie.

11 Q Just to get what you want?

12 A Yes. And when I return, I give
13 her a rose, and you're getting a lot of
14 advice from me.

15 MR. ZABELL: I need to take a
16 break. I need to digest all of this.
17 Okay, let's take a few-minute break.

18 (Whereupon, a recess was taken
19 from 2:51 p.m. until 3:02 p.m.)

20 Q Mr. Martinez, you had a nice
21 break?

22 A Yes.

23 Q You prepared to come and tell
24 the truth?

25 A Yes.

1 J. L. Martinez

2 Q And not play games?

3 A No.

4 Q Before the break, you were
5 explaining to me that sometimes you tell
6 little lies to your girlfriend to get what
7 you want; correct?

8 A Yes.

9 Q Is she the only one that you
10 tell little lies to get what you want?

11 A Yes.

12 Q You don't tell lies to anybody
13 else?

14 A No.

15 Q Did you ever lie to your mother?

16 A No, I've never lied to my
17 mother.

18 Q Not even a little lie to avoid
19 getting punished?

20 A No, no.

21 MR. McNAMARA: Objection.

22 Counselor, can we please move on. Come
23 on.

24 MR. ZABELL: You can object to
25 the form and nothing else.

1 J. L. Martinez

2 Q Did you ever lie to your father?

3 A I didn't live with my father.

4 Q Did you ever lie to your uncle?

5 A No.

6 Q Never, not even a little bit?

7 A Not even a little bit.

8 Q But your girlfriend, you lied
9 to?

10 A Yes, but not to harm her nor to
11 get what I want. Just so that she's always
12 happy with me.

13 Q Did you ever lie to the mother
14 of your children?

15 MR. McNAMARA: Objection.

16 A My girlfriend is the mother of
17 my children.

18 Q So you did lie to her?

19 A No.

20 Q You just said you lied to her --

21 A No.

22 Q -- so she's always happy with
23 you.

24 A Yes, but they're very small
25 things.

1 J. L. Martinez

2 Q Did you ever lie to your mom
3 about very small things?

4 A No.

5 Q Only your girlfriend?

6 A Just my girlfriend.

7 Q And only the mother of your
8 children?

9 A Yes, the mother of my children,
10 only her.

11 Q Does she know you lie to her?

12 A Yes, she knows that.

13 Q Does she lie to you?

14 A I don't know.

15 Q Would you be upset if you found
16 out that she lied to you?

17 A It depends.

18 Q Would you feel that you couldn't
19 trust her if you found out that she was lying
20 to you?

21 A Yes, maybe.

22 Q Did Lou Vecchia ever lie to you?

23 A Yes, many.

24 Q About what? What did he lie to
25 you about?

1 J. L. Martinez

2 A About my work. I never had any
3 confrontation with him, but when I complained
4 about my pay, he would always say, I'm going
5 to fix it the following week, and that always
6 happened. The next week, he would get
7 angrier, and then I wouldn't have the
8 opportunity to bring it up to him.

9 Q Is that it?

10 A Yes, that's it.

11 Q And this is that you would make
12 complaints about, your checks; correct?

13 A Yes, I complained.

14 Q The checks you received every
15 week; correct?

16 A Yes.

17 Q And the checks that listed the
18 hours that you worked on them; correct?

19 A Excuse me?

20 Q You testified earlier that the
21 checks you received listed the hours that you
22 worked; correct?

23 A Yes.

24 Q That's what you would complain
25 about; correct?

1 J. L. Martinez

2 A Yes.

3 Q You testified earlier that you
4 could go directly to the job site in the
5 morning, but instead, you would go to the
6 shop with your friends.

7 MR. McNAMARA: Objection.

8 Q Correct?

9 A Yes.

10 Q Did you ever see any posters at
11 the shop?

12 A No. Calendars, that's the only
13 thing that I would see at the shop.

14 Q And you would go into the shop,
15 and you would get directions to that day's
16 job; correct?

17 A They would give that to the
18 drivers. The group would meet -- the work
19 group would meet at the yard, and from there,
20 he had a card for each group.

21 Q Did you consider your work day
22 to start when you got to the shop in the
23 morning, or when you got to the worksite?

24 A When I got to the shop in the
25 morning.

1 J. L. Martinez

2 Q But you didn't start working
3 until you actually got to the job site?

4 MR. McNAMARA: Objection.

5 Q Correct?

6 A Yes. We started working,
7 because when we got to the yard, Lou Vecchia
8 didn't like anyone standing around the
9 building. Everyone had to be doing
10 something, so that we could leave for the job
11 site as quickly as possible.

12 Q But you could have gone directly
13 to the job site in the morning instead;
14 correct?

15 MR. McNAMARA: Objection.

16 A He didn't allow that.

17 Q Did you ever go the job sites in
18 the morning directly?

19 A Yes, sometimes he would ask us
20 to go. When the work was near the house, he
21 would say that we could go straight to the
22 job, but I didn't do it, because I didn't
23 have anything to drive to work in.

24 Q So because you didn't have
25 anything to drive in, you always went to the

1 J. L. Martinez

2 shop?

3 A Yes, I always went to the shop.

4 Q So sometimes you would tag along
5 with others, because you didn't have anything
6 to drive?

7 A No.

8 Q You just said that you would go
9 to the shop, because you didn't have anything
10 to drive to go directly to the job site;
11 right?

12 A Yes.

13 Q And then, you would go eat
14 breakfast after you left the shop in the
15 morning; correct?

16 MR. McNAMARA: Objection.

17 A When I was in the truck going to
18 work, we would eat, because once we were at
19 the job site, there was no time to eat. The
20 foreman that we had was very strict, very
21 strict, and he didn't allow anyone to eat
22 once we started working.

23 Q Really? Did you ever take
24 breaks when you were on the worksite?

25 A Just to take water or soda when

1 J. L. Martinez

2 it was very hot, but it wasn't really a five-
3 or ten-minute break. It was -- we had to
4 drink something as quick as possible and
5 continue working.

6 Q What about lunch; did you ever
7 eat lunch at the worksite?

8 A No -- yes. When we ate, we
9 would take five or ten minutes, but the
10 exception was when the material would take
11 time to get there, and we would relax about
12 twenty minutes to eat.

13 Q Would you ever get food from a
14 deli?

15 A Yes, sometimes.

16 Q Not every day?

17 A Not every day.

18 Q You know, all the other
19 coworkers said they used to get food from a
20 deli.

21 MR. McNAMARA: Objection.

22 A Yes, but before I said I would
23 bring my food from home.

24 Q Every day you brought food from
25 home?

1 J. L. Martinez

2 A Not every day.

3 Q So you either brought food from
4 home or went out to a deli; right?

5 A When we were at a very big job
6 and we had to finish it at 7:00 or 8:00 p.m.,
7 the foreman would send one person to buy
8 something to eat while the rest of us were
9 working. When the one that went to buy food
10 returned, we would eat about five or ten
11 minutes and continue working.

12 Q What kind of food would you eat?

13 A Sandwiches, chicken cutlet.
14 Whatever was the closest to work, that's what
15 we would buy.

16 Q What kind of sandwich would you
17 get?

18 A Chicken cutlet. Almost always
19 chicken cutlet or pizza, something that was
20 fast.

21 Q You would eat chicken cutlet on
22 a hero?

23 A No, not on a hero. On a roll.

24 Q On a roll with lettuce, tomato?

25 A Yes, sometimes.

1 J. L. Martinez

2 Q Mayonnaise?

3 A No.

4 Q Ketchup?

5 A No, no ketchup.

6 Q Mustard?

7 A No.

8 Q Pickles?

9 A I don't like pickles.

10 Q Thousand Island dressing?

11 A No.

12 Q Dry?

13 A Yes, dry.

14 Q So you'll eat mayonnaise on

15 eggs, but you won't eat it on a chicken

16 cutlet sandwich?

17 A No, not on the chicken sandwich.

18 Q With bacon?

19 A No.

20 Q Cheese?

21 A Cheese, sometimes.

22 Q What kind of cheese?

23 A American cheese, yellow.

24 Q You don't like American cheese,

25 white?

1 J. L. Martinez

2 A No -- yes, I like it.

3 Q It's delicious.

4 A Almost everyone uses yellow
5 cheese, and I got used to that.

6 Q Did you ever play soccer on a
7 job site?

8 A I remember that I did do it
9 once. I was working with an operator, and I
10 was waiting for the guy who gave me a ride
11 home, so when they returned, we stayed there
12 and we were talking, and we started to play
13 in the back.

14 Q Whose soccer ball was it?

15 A I think this was my Uncle
16 Nelson's. Yes, Nelson.

17 Q So Nelson always brought a
18 soccer ball to the job sites?

19 A Not only him. After, when we
20 have the opportunity to get out at 6:00 p.m.
21 or 6:30, we would take advantage and go and
22 play soccer a little.

23 Q So everybody brought a soccer
24 ball?

25 A No, not everyone, some of them.

1 J. L. Martinez

2 Q How many of them?

3 A I don't know. All of us who
4 played soccer. Not everyone.

5 Q You brought a soccer ball to
6 work?

7 A No, it didn't fit in my
8 backpack.

9 Q Did you ever drink beer at a job
10 site?

11 A No.

12 Q If some of your coworkers said
13 you did, would they be lying?

14 MR. McNAMARA: Objection.

15 A Yes, they would be lying.

16 Q Do you drink beer?

17 A On occasions.

18 Q Every weekend?

19 A No.

20 Q How often?

21 A Whenever we have a family party
22 or a barbecue in the summer. We do it -- we
23 drink two or three beers with the family.

24 Q Just two or three?

25 A Yes.

1 J. L. Martinez

2 Q What time would you get to the
3 job sites in the morning?

4 A We never had a specific hour.
5 There were times that I had to get there at
6 4:30. The normal hour was at 6:00 a.m. In
7 the summertime, when it was the busiest, the
8 schedule was 6:00 a.m. every day. When the
9 hour changes, when it gets darker a little
10 later and it gets darker earlier at night, we
11 would start at 6:30.

12 Q So you would start on the
13 worksite at 6:00 or 6:30 every morning;
14 correct?

15 A Every morning, but we had -- if
16 we worked at a certain hour or an
17 hour-and-a-half and if the parkways were very
18 busy and a lot of traffic, we had to be there
19 very early in the morning.

20 Q So 6:00 or 6:30 every morning,
21 you were at the job site; right?

22 A No, no, no, no.

23 Q That's what you just said.

24 A Yes. But I'm explaining that on
25 different occasions, it depended on where we

1 J. L. Martinez

2 were going to work.

3 Q That's what I'm trying to find
4 out.

5 On the actual job sites that you
6 were going to, what time would you arrive
7 there?

8 A Between 6:30 and 7:00 a.m.

9 Q Oh, not between 6:00 and 6:30?

10 A No. At 6:30, we had to be at
11 the yard, and the latest that we got to the
12 job site was 7:00, 7:15, and we were already
13 starting to work.

14 Q What time would you leave the
15 job site?

16 A Whenever we finished, 7:30 or
17 8:00 p.m.

18 Q Every day; 7:30 or 8:00 p.m.
19 every day?

20 A Almost, almost always.

21 Q Monday through Friday; right?

22 A Yes, from Monday through Friday.

23 Q And you only worked Monday
24 through Friday; correct?

25 A I worked Saturdays many times.

1 J. L. Martinez

2 Q How many times?

3 A There were two years. In the
4 year 2005 and the year 2006, almost every
5 week. I would work Saturday almost every
6 week.

7 Q For Suffolk Asphalt?

8 A For Suffolk Paving.

9 Q You never worked for
10 Suffolk Asphalt; right?

11 A No.

12 Q So there's no reason for you to
13 be suing Suffolk Asphalt; correct?

14 MR. McNAMARA: Objection.

15 A No.

16 Q In 2008, do you remember some of
17 the names of the projects that you worked on?

18 A No, I never tried to ask. When
19 we were at work, I never really knew what we
20 were doing.

21 Q So you have no recollection of
22 any of the projects you worked for?

23 MR. McNAMARA: Objection.

24 A I only know that we would work
25 on the streets of Islip, the streets of

1 J. L. Martinez

2 Brookhaven. We worked in the schools. We
3 would collect the black water. We would work
4 there in the parking lots of CVS Pharmacy.

5 Q Do you know the exact dates that
6 you worked at these locations?

7 A No.

8 Q Do you know the exact hours that
9 you worked at these locations?

10 A No, I don't know. We would work
11 with -- they would have the hour that we
12 started and the hour that we finished.

13 Q In 2007, do you remember any of
14 the projects that you worked on?

15 A No, no. I don't recall.

16 Q You have no recollection of any
17 of the projects that you worked on; do you?

18 MR. McNAMARA: Objection.

19 A No.

20 Q 2006, do you have any
21 recollection of any of the projects that you
22 worked on?

23 A No. I never really paid
24 attention to the name of a project. I would
25 just always work.

1 J. L. Martinez

2 Q And you would always work and
3 you would always get a paycheck; correct?

4 A Yes.

5 Q And those paychecks would
6 indicate the hours that you worked on them;
7 correct?

8 MR. McNAMARA: Objection.

9 A Yes.

10 Q You don't know how much you're
11 suing Suffolk Paving for; correct?

12 A No.

13 Q And you don't know how many
14 hours of overtime you worked; do you?

15 A No.

16 Q And you don't know how many
17 projects you worked on; correct?

18 A No.

19 Q And you don't know the names of
20 any of the projects you worked on; correct?

21 A No.

22 Q And you don't know any of the
23 hours that you worked on those projects;
24 correct?

25 MR. McNAMARA: Objection.

1 J. L. Martinez

2 A No.

3 Q And you do know that for every
4 week you worked, you got a paycheck; correct?

5 MR. McNAMARA: Objection.

6 A Yes.

7 Q Those paychecks reflected the
8 hours that you worked; correct?

9 MR. McNAMARA: Objection.

10 A Yes.

11 MR. ZABELL: Give me a few
12 minutes, and then we'll see if we can
13 wrap this up; okay?

14 MR. McNAMARA: Sure.

15 (Whereupon, a recess was taken
16 from 3:22 p.m. until 3:36 p.m.)

17 Q Mr. Martinez, is there anything
18 else you'd like to tell me?

19 A No.

20 Q I want you to apologize for
21 lying today.

22 MR. McNAMARA: Objection.

23 A Okay, I'm sorry.

24 Q I accept your apology.

25 Although, please understand that your lies

1 J. L. Martinez

2 today will inevitably affect the credibility
3 of your words.

4 Do you understand that?

5 A Yes.

6 MR. ZABELL: Thank you for your
7 time. Have a good day.

8 THE WITNESS: Okay, thank you.

9 MR. ZABELL: You may go now.

10 (Time noted: 3:55 p.m.)

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A C K N O W L E D G E M E N T

STATE OF NEW YORK)
 : ss
COUNTY OF)

I, JOSE L. MARTINEZ hereby certify that I
have read the transcript of my testimony
taken under oath in my deposition of
September 29, 2011; that the transcript is a true,
complete and correct record of my testimony;
and that the answers on the record as given
by me are true and correct.

JOSE L. MARTINEZ

Signed and subscribed to before me
this ____ day of _____, 2011.

Notary Public, State of New York

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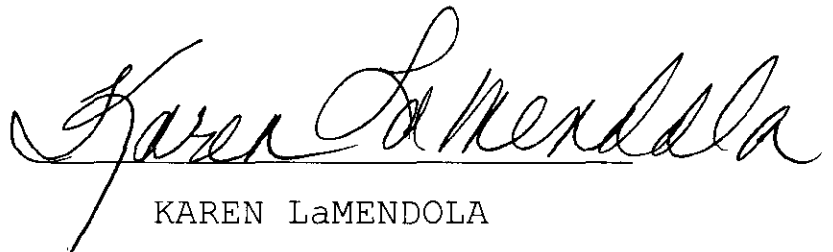
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C E R T I F I C A T E

I, KAREN LaMENDOLA, a shorthand reporter and Notary Public within and for the State of New York, do hereby certify:

That the witness(es) whose testimony is herein before set forth was duly sworn by me, and the foregoing transcript is a true record of the testimony given by such witness(es).

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.


KAREN LaMENDOLA

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ERRATA SHEET

I wish to make the following changes for
the following reasons:

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